

IN THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

The Honorable William A. McKinnon, Circuit Court Judge

Appellate Case No. 2022-001496

RECEIVED

Nov 30 2022

S.C. SUPREME COURT

Holmes Simpson-Davis,

Petitioner,

vs.

State of South Carolina,

Respondent.

APPENDIX
Volume I

Ranee Saunders
Elizabeth Franklin-Best
Elizabeth Franklin-Best, P.C.
3710 Landmark Drive, Suite 113
Columbia, SC 29204
(803) 445-1333

Counsel for Petitioner

Chelsey Marto
S.C. Attorney General's Office
P.O. Box 11549
Columbia, SC 29211
(803) 734-0386

Counsel for Respondent

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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County
J. Derham Cole, Circuit Court Judge

THE STATE,

V.

HOLMES ANDREW SIMPSON-DAVIS,

APPELLANT

APPELLATE CASE NO. 2017-001974

RECORD ON APPEAL

SUSAN B. HACKETT
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

ANTHONY MABRY
Senior Assistant Attorney General
S.C. Bar No. 11973
South Carolina Attorney General's Office
P.O. Box 11549
Columbia, South Carolina 29211
803-734-6305

BARRY J. BARNETTE
Solicitor, Seventh Judicial Circuit
180 Magnolia Street, 3rd floor
Spartanburg, South Carolina 29306

ATTORNEYS FOR RESPONDENT

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SC Court of Appeals

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STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

COURT OF GENERAL SESSIONS

2016-GS-42-01734

2016-GS-42-01735

2016-GS-42-01736

STATE OF SOUTH CAROLINA,)

vs.)

TRANSCRIPT OF RECORD

HOLMES ANDREW SIMPSON-DAVIS,)
DEFENDANT.)

VOLUME I

ORIGINAL

September 5 and 6, 2017
Spartanburg, South Carolina

B E F O R E:

THE HONORABLE J. DERHAM COLE, JUDGE; and a jury.

A P P E A R A N C E S:

J. EDWARD HUNTER, ESQ.
ALLISON M. MABBS, ESQ.
Assistant Solicitors

CHRISTOPHER P. THOMPSON, ESQ.
Attorney for the Defendant

HOLLIE M. JENKINS
Circuit Court Reporter

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Spartanburg County.

1 MS. MABBS: Thank you, Your Honor.

2 May it please the Court.

3 THE COURT: Yes, ma'am.

4 OPENING STATEMENTS

5 MS. MABBS: Members of the jury, you're here today
6 because Holmes Simpson-Davis shot Robert Hull in the face
7 and he was killed. You're here today because he pointed
8 the gun at James Kilgore and Bruce Brewton. And as they
9 fled, they were both shot in the leg and the foot.

10 Now, members of the jury, I know Judge Cole
11 introduced us to you yesterday. I'm Allison Mabbs. And
12 this is my co-counsel, Eddie Hunter. We're representing
13 the State in this case against the Defendant.

14 Now, members of the jury, I just want to briefly
15 caution you, as of now, both of us are both present.
16 Mr. Hunter's wife is currently expecting. If he
17 disappears later in the week, it has nothing to do with
18 this case. It just means that the baby is here a little
19 early. So we just wanted to let you know that on the
20 front end so it doesn't distract y'all from what really
21 matters here.

22 Now, members of the jury, throughout the course of
23 this trial, you'll have the opportunity to hear from
24 several witnesses, see several pieces of evidence. And
25 what that will show you is that on July 25th, 2015, there

1 was a party on Howard Street over at a liquor house.

2 You'll hear that there was an argument at that house
3 between Felshunti Clark and Robert Hull, as well as Bruce
4 and James. And, unfortunately, after that altercation,
5 Felshunti Clark left and started walking down Howard
6 Street towards the city. And you'll get to hear that he
7 made two phone calls that night to the Defendant. You'll
8 hear that he, eventually, walked back down Howard Street
9 with four other men in tow, including the Defendant.

10 You'll hear that, at that time, Bruce and James had
11 walked over next door to [REDACTED] to go find
12 Mr. Hull. You'll hear that there was a verbal altercation
13 in the driveway there between Felshunti and James. And
14 that started to die down.

15 But during that verbal altercation, the Defendant was
16 standing next to Mr. Clark, and already had his gun pulled
17 at his side. You'll hear that Mr. Hull came down off the
18 porch of that house and made a comment that, apparently,
19 Mr. Simpson-Davis didn't like. You'll hear that he took
20 that gun and shot Mr. Hull in the face killing him
21 instantly when the bullet was lodged in his spine.

22 You'll hear that he pointed that gun at Bruce and at
23 James. As they tried to run away, that's when more
24 shooting came. And they were shot, again, in the leg and
25 the foot.

1 You'll hear from a witness who was over at a
2 different house with some friends that he saw -- heard
3 some gunshots, and saw two men running down that street
4 shooting behind them.

5 Members of the jury, you'll get to hear from lay
6 witnesses in this case. You'll get to hear from police
7 officers. You'll get to hear from Dr. Wren, who's the
8 pathologist in the case. He'll explain about that gunshot
9 killing Mr. Hull.

10 Now, as Judge Cole mentioned, there are six separate
11 charges in this case. And the Judge will instruct you on
12 the law at the end of this case. But, very briefly, for
13 now, there's the one charge of murder for the death of
14 Mr. Hull.

15 Now, on a very basic level, murder is the killing of
16 another with malice aforethought. Now, malice
17 aforethought doesn't necessarily mean that you're sitting
18 in a darkened room and plotting someone else's demise.
19 Malice aforethought can be instantly before the actual
20 shooting.

21 There's, also, the two charges of attempted murder
22 for James and Bruce for being shot in the leg, and having
23 the gun pointed at them. And then attached with each one
24 of those charges is a possession of a firearm during a
25 violent crime.

1 Members of the jury, I think that's pretty much
2 common sense as to what that means. There's a shooting.
3 There's a firearm attached to it. And that you have to
4 have a gun in your hand when you shoot someone.

5 Members of the jury, right now, you are a group of
6 12. Now, I understand there's 14 with the two alternates.
7 But you're a group of 12. You're 12 people, 12 sets of
8 ears. You'll get to hear the testimony. You'll get to
9 hear the witnesses tone, and decide if you find them
10 credible. 12 sets of eyes to, again, see the witnesses,
11 judge their demeanor, view the evidence. You're 12 people
12 with different life experiences that create and form your
13 common sense that you will get to use as you judge this
14 case.

15 At the end of this trial, you won't be 12 anymore,
16 you'll be one. You'll be one jury, one voice, and one
17 verdict. And we, as the State, at that time, will ask
18 that you find that verdict guilty on each of the charges.

19 Thank you.

20 MR. THOMPSON: May it please the Court.

21 THE COURT: Mr. Thompson.

22 MR. THOMPSON: May it please the Court, Your Honor.

23 Ladies and gentlemen, I was introduced to you
24 yesterday. I'm Chris Thompson. I represent Mr. Holmes
25 Simpson-Davis over here. This gentleman comes from a nice

1 family. And, hopefully, at the end of the day, things
2 will turn out well for him.

3 But I always like to take this opportunity to thank
4 you for your service. You're here missing work. You're
5 away from your family. You have some rules placed upon
6 you. You're making a sacrifice. Your sacrifice you're
7 making, in my opinion, separates us from a lot of
8 countries that aren't as lucky as we are. So I appreciate
9 your service. And I appreciate what you're doing here.

10 You're going to hear some terms, reasonable doubt,
11 elements of a crime. And Judge Cole will explain exactly
12 what those things mean. And there's one term called
13 burden of proof. And the burden of proof lies solely on
14 the State. My client and I, we can sit over here and do
15 crossword puzzles. We have to prove nothing. We can sit
16 over here. It's all on them.

17 But there is a burden, too. Think about my client
18 and the State. The State's got police officers, some good
19 equipment over here, vast resources. My client's got me.
20 He, also, has you.

21 And that's where some more terms are going to come
22 in. And the Judge is going to talk to you about
23 believability of witnesses, their candor, their
24 credibility. Think about that. He says use your common
25 sense, your good judgment. You'll apply all of that, your

1 life experiences to what's presented to you from this
2 stand, and nothing else. Once you do that, you'll go back
3 and you'll determine guilt or innocence.

4 Also, I want you to think about what would be a
5 motivation for somebody to sit up here and tell a lie.
6 Unfortunately, a lot of our cases in our courtrooms from
7 magistrate court to Family Court, on up here to General
8 Sessions, one person gets up here and says A, B, C, and
9 another person comes in and says X, Y, Z, something
10 totally opposite.

11 Your job is to determine who's telling the truth,
12 but, also, why would the other side be lying? I'm going
13 to ask you to do that. I'm going to ask you to take your
14 job here today very, very seriously. Analyze each and
15 every thing that's presented to you. And then go back to
16 that candor and credibility, believability, the part I
17 asked you earlier to consider.

18 At the end of the day, after you deliberate, you're
19 going to come back and find out Mr. Holmes [sic] is not
20 responsible for any of these crimes at all.

21 So, again, I thank you for your service. I thank you
22 for your time. And I just ask that you analyze and take
23 this very, very seriously.

24 Thank you.

25 THE COURT: Mr. Hunter.

1 MR. HUNTER: Your Honor, I believe my first witness
2 is sitting outside.

3 (Pause.)

4 WHEREUPON,

5 MICHAEL KEITH JONES,
6 after first having been duly sworn, testified as follows:

7 THE CLERK: Thank you.

8 Have a seat.

9 DIRECT EXAMINATION

10 BY MR. HUNTER:

11 Q Will you state your full name for the record, please?

12 A Michael Keith Jones.

13 THE COURT: Let me warn everybody right now. This
14 microphone is not very good. And so I'm going to ask all
15 the witnesses to, please, get as close as you can to it.
16 Don't -- don't, you know, put your mouth right on it, of
17 course. But get as close as you can. Because you think
18 it's supposed to pick it up and it is, but something's
19 wrong with it, so it's not. So be sure you keep your
20 voice up and get close to the microphone.

21 THE WITNESS: Michael Keith Jones.

22 THE COURT: And let me say this. If any juror ever
23 has any difficulty hearing anything -- it's important that
24 you do. So if you have any difficulty -- it's not
25 important that you have difficulty. It's important that

1 you hear everything. But if you can't hear something, you
2 raise your hand and we'll make other arrangements. Okay.

3 BY MR. HUNTER:

4 Q All right. Please repeat your name.

5 A Michael Keith Jones.

6 Q Okay. And how are you currently employed?

7 A At the Spartanburg detention center.

8 Q How long have you been employed there?

9 A 32 years.

10 Q Okay. And what is your current position?

11 A I'm the administrator over the inmate phone calls.

12 Q Okay. What type of program do the inmate phone calls
13 use?

14 A It's a recording service from GTL.

15 Q Is it Global-Tel?

16 A Yes, it is.

17 Q Okay. And how do the inmate jail phone calls work?

18 A The inmate comes into the jail. He's given an arm
19 band. It's got a number on it that they use to make phone
20 calls with on the phones in the pods where they're housed.

21 Q On those phone calls, what does the inmate hear when
22 he makes a phone call?

23 A It tells you -- it gives you a prompt that the phone
24 call is going to be recorded.

25 Q Okay. So the inmate, actually, hears that when they

1 make a phone call?

2 A Yes, both parties do.

3 Q Both the inmate, as well as the person receiving the
4 phone call?

5 A Yes.

6 Q All right. Is it a collect call?

7 A Yes.

8 Q So the inmate always has to --

9 A Going out.

10 Q -- make the call out?

11 A Yes.

12 Q Okay. I'm going to show you what's been pre-marked
13 as State's Exhibit No. 51.

14 A Yes, sir.

15 Q Do you recognize that item?

16 A Yes, I do.

17 Q And how do you recognize that item?

18 A It's got my mark on it.

19 Q When you say your "mark," what is --

20 A My initials.

21 Q Okay. Did I, specifically, request jail phone calls
22 from you?

23 A Yes, you did.

24 Q Did I request them from a certain inmate, or did I
25 request them in another way?

1 A You gave me a subpoena for the phone calls for him.

2 Q But was it through the inmate's account number, or
3 was it through a phone number -- an outside phone number?

4 A I'm not -- I can't remember.

5 (WHEREUPON, State's Exhibit No. 58 was marked for
6 identification only.)

7 BY MR. HUNTER:

8 Q I'm going to show you what's been pre-marked as
9 State's Exhibit No. 58.

10 THE COURT: Did you say State Exhibit No. 58?

11 MR. HUNTER: State's Exhibit No. 58.

12 BY MR. HUNTER:

13 Q Do you recognize that item?

14 A Yes, I do.

15 Q So the request that came from our office is not for
16 the inmate's phone calls, but the phone calls from a -- to
17 a certain number?

18 A Yes, it is.

19 Q Okay. And how many phone calls did you provide us?

20 A 22.

21 Q Okay. However -- thank you.

22 Were you able to listen to the prompts on State's
23 Exhibit No. 51?

24 A I did not.

25 Q State's Exhibit No. 51 from --

1 A Yes. Yes, I did.

2 Q Okay. Are you able to confirm that those are jail
3 phone calls that we subpoenaed from you on that number
4 listed?

5 A Yes, sir.

6 Q And there are four phone calls?

7 A Yes, sir.

8 Q Okay. And you handed those over to our office back
9 in August of this year?

10 A Yes, sir.

11 MR. HUNTER: Okay. Please answer any questions that
12 Mr. Thompson may have for you.

13 MR. THOMPSON: May it please the Court.

14 CROSS-EXAMINATION

15 BY MR. THOMPSON:

16 Q Officer Jones, you indicated that you received a
17 subpoena request concerning, what, a phone number?

18 A Yes.

19 Q Was that a random number -- I mean, a number he gave
20 you; right?

21 A Yes.

22 Q Okay. And you don't listen to all the calls --

23 A I don't listen to any of them.

24 Q Okay. You just have a way to go back and access
25 certain calls?

1 A Yes, through the computer system.

2 Q Okay. As far as confirming that you listened to what
3 appeared to be calls from the jail, you -- you can confirm
4 what?

5 A The phone prompt.

6 Q The phone prompt when someone calls?

7 A Yes.

8 Q And that's probably a common program used with
9 other --

10 A Yes.

11 Q -- correctional facilities?

12 A I -- just at our jail it is.

13 Q Okay. So everybody that calls in or out --

14 A All phone calls going out are recorded. And they
15 have a prompt.

16 MR. THOMPSON: Okay. I have no further questions.

17 MR. HUNTER: Your Honor, just one -- one question
18 from the State, Your Honor.

19 REDIRECT EXAMINATION

20 BY MR. HUNTER:

21 Q I'm going to show you State's Exhibit No. 58 again.
22 I just want you to read the number that we gave you.

23 A It's 864-345-0379.

24 MR. HUNTER: All right. Thank you very much.

25 No further questions.

1 THE COURT: Step down.

2 MR. HUNTER: May Lieutenant Jones be excused?

3 THE COURT: He may be.

4 MR. THOMPSON: No objection.

5 MS. MABBS: The State calls Deputy Shehan.

6 WHEREUPON,

7 KENNETH SHANE SHEHAN,

8 after first having been duly sworn, testified as follows:

9 THE CLERK: Have a seat.

10 DIRECT EXAMINATION

11 BY MS. MABBS:

12 Q Deputy Shehan, can you, please, introduce yourself to
13 the jury?

14 A My name is Kenneth Shane Shehan. I'm a deputy with
15 Spartanburg County.

16 Q And, Deputy Shehan, if you wouldn't mind speaking up
17 a little bit so we can hear you down here.

18 A Yes, ma'am.

19 Q Deputy Shehan, where do you currently work?

20 A I work in the central area at Spartanburg County.

21 Q And how long have you been with Spartanburg County?

22 A Going on five years.

23 Q And when you say "Spartanburg County," do you mean
24 the sheriff's office?

25 A Yes, ma'am.

1 Q And can you explain to us what some of your duties as
2 a sheriff's deputy are?

3 A We answer domestic calls, assault calls, shooting
4 calls, all calls like that.

5 Q And do you recall responding to a call back on
6 July 25th, 2015?

7 A Yes, ma'am.

8 Q Can you tell us a little bit about that?

9 A I was in the area of the sheriff's office. I was --
10 I was fairly close to it when we got the call that there
11 had been a shooting at [REDACTED]

12 Q And what did you do when you received that call?

13 A I went priority to the call.

14 Q And what do you mean by "went priority"?

15 A Lights and sirens.

16 Q About how long did it take you to get from the
17 sheriff's office to [REDACTED]?

18 A A few minutes, maybe five minutes.

19 Q And what did you see when you arrived on the scene?

20 A When I arrived on the scene, I observed a gentleman
21 laying in the driveway, who was identified as Mr. Hull.
22 There was, also, two black males standing near Mr. Hull,
23 who I sent back to the residence where they had come from.
24 And then I went and checked on Mr. Hull to see if he was
25 still alive.

1 Q Okay. And when you checked him -- what do you do
2 when you check somebody?

3 A I checked to see if he's breathing, if he's moving,
4 if I could hear any sounds --

5 Q And did you see or hear --

6 A No, ma'am.

7 Q Were you the first officer at the scene?

8 A I was.

9 Q So what did you do after you checked Mr. Hull's
10 stats?

11 A After I checked Mr. Hull's stats, Deputy Hullinger
12 came up. I told Deputy Hullinger about the two gentlemen
13 that went to the house. I sent him there.

14 I checked Mr. Hull to see if he had an ID in the
15 pocket that was closest to me, so that I didn't disturb
16 the body anymore than I needed to. Once I was done doing
17 that, I started directing scene security.

18 Q And what -- what is scene security?

19 A Basically, we set up a perimeter for the scene so
20 that we don't disturb any evidence that may or may not be
21 there.

22 Q And how do you set up that perimeter?

23 A We use cars to block off the roadway, crime scene
24 tape, put officers at different locations that we need to.

25 Q So you were kind of in charge of all --

1 A Yes, ma'am.

2 Q Is that a standard procedure for first at the scene?

3 A Yes, ma'am. Until the investigator arrives on scene,
4 or a supervisor or sergeant arrives, then first on scene
5 is usually in charge.

6 Q And while you were at the scene, were you wearing a
7 body camera?

8 A Yes, ma'am.

9 Q And have -- have you been trained to operate that
10 camera?

11 A Yes, ma'am.

12 Q Can you explain to us kind of what that training
13 entailed?

14 A It -- the training tells how to operate the camera,
15 how to make sure that it's on, and functioning properly.

16 Q And how do you know if a camera is on?

17 A It -- it beeps. It tells you. It's a pretty
18 pronounced beep.

19 Q Okay. What steps do you have to go through to turn
20 it on --

21 A You have -- you have to turn the camera on. Once it
22 loads up, you click the center button, the large center
23 button twice, and it starts recording immediately.

24 Q And was your camera properly operational that day?

25 A Yes, ma'am.

1 Q And when -- when does it start recording?

2 A Immediately. As soon as you press the button, it
3 starts recording. You don't get sound for the first 30
4 seconds, but there is video.

5 Q And why don't you get sound for the first 30 seconds?

6 A That's -- that's just the design of the camera. I
7 don't know.

8 Q And what do you do once you are done with recording
9 whatever it is that you're recording?

10 A We upload it.

11 Q And then how do you upload it?

12 A Through a -- through the system. There's a dock at
13 the sheriff's office that you can upload through, or some
14 of us have the ability to upload through our -- our local
15 terminal.

16 Q Are you able to alter these videos at all?

17 A No, ma'am.

18 MS. MABBS: Your Honor, if I may approach the witness
19 with what has been marked as State's Exhibit No. 55, Your
20 Honor.

21 THE COURT: Okay.

22 BY MS. MABBS:

23 Q Deputy Shehan, do you recognize what I handed you?

24 A Yes, ma'am.

25 Q And what is that?

1 A This is the first recording from my camera.

2 Q Have you had an opportunity to review that recording?

3 A Yes, ma'am.

4 Q And when did you last review it?

5 A Yesterday.

6 Q And after you reviewed it yesterday, did you make any
7 notation on the CD?

8 A Yes, ma'am. I put my initials and the date that I
9 viewed it.

10 Q Okay. And when you viewed that, was that still a
11 fair and accurate depiction of what you saw and heard that
12 day?

13 A Yes, ma'am.

14 MS. MABBS: Your Honor, at this time, the State would
15 move State's Exhibit No. 55 into evidence.

16 MR. THOMPSON: No objection.

17 THE COURT: It's admitted.

18 (WHEREUPON, State's Exhibit No. 55 was admitted into
19 evidence.)

20 MS. MABBS: Thank you, Your Honor.

21 Permission to publish to the jury.

22 THE COURT: You may.

23 (Pause.)

24 THE COURT: Mr. Shehan, while she's setting that up,
25 of course, the court reporter -- the jury is in front of

1 you when you turn, but the court reporter is behind you.
2 And so it makes it more difficult for her to hear what you
3 have to say.

4 So be sure that if you're asked a question about the
5 video, you look at the video, but turn back to the
6 microphone in order to respond to the question.

7 THE WITNESS: Yes, sir.

8 THE COURT: So that we can all hear it. Okay.

9 THE WITNESS: Yes, sir.

10 (WHEREUPON, State's Exhibit No. 55 was played in
11 open court.)

12 BY MS. MABBS:

13 Q Deputy Shehan, at some point in that video -- I'm not
14 sure if it's you or another officer makes the comment of,
15 I like that sound. Do you know what sound either you or
16 that other officer was referring to?

17 A No, ma'am, I do not. I don't remember.

18 Q And do you recall what time you were dispatched to
19 the scene?

20 A No, I do not.

21 Q I mean, approximately?

22 A Let's see.

23 No, ma'am. I know it was -- it was early morning. I
24 don't -- I don't remember what time.

25 Q And, Deputy Shehan, I know you discussed earlier

1 about how after you got to the scene, y'all set up the
2 perimeter, and the tape, and whatnot. But before you got
3 there, was there anything to stop anyone from driving
4 through that crime scene?

5 A No, ma'am, there was not.

6 MS. MABBS: Nothing further at this time.

7 Please answer any questions Mr. Thompson may have.

8 THE WITNESS: Yes, ma'am.

9 MR. THOMPSON: May it please the Court, Your Honor.

10 THE COURT: Yes, sir.

11 CROSS-EXAMINATION

12 BY MR. THOMPSON:

13 Q Officer Shehan, you said it took you about five
14 minutes to make it to the crime scene?

15 A Roughly, yes, sir.

16 Q But you don't recall what time you were dispatched?

17 A No, sir, I do not.

18 Q Would that not be revealed on the body cam, if we
19 were to see the bottom of it?

20 A I -- it may be. I'm not sure.

21 Q All right. And you indicated that when you arrived,
22 you -- you saw Mr. Hull's body there; correct?

23 A Yes, sir.

24 Q And there were two black males beside him?

25 A Close -- in close proximity to him, yes.

1 Q Okay. Did you -- did you identify those two folks?

2 A No, sir. I sent them back to the residence. And
3 another -- another deputy went up and talked to those two.

4 Q Okay. And so you didn't get an identity -- identity
5 of those guys. And you set up a perimeter. That means
6 you're keeping folks away from the scene; correct?

7 A Yes, sir.

8 Q Okay. Now, was there any sweep or canvas of the
9 neighborhood for the potential shooters?

10 A Not by myself.

11 Q All right. And you don't know if any -- if anyone
12 did that?

13 A No, sir. I was pretty busy.

14 Q And you indicated that there was nothing to keep
15 traffic from going through there prior to your arrival?

16 A No, not prior to my arrival. No, sir.

17 Q And you don't know exactly how long the body had been
18 there; right?

19 A No, sir.

20 Q Now, I've got -- and you indicated you were the first
21 on the scene; right?

22 A Yes, sir..

23 Q But wasn't there an officer there to greet you when
24 you arrived?

25 A No, sir. He pulled in just a few seconds behind me.

1 Q So, basically, the same -- okay -- right when you
2 did. I've got one report you did that indicated -- it may
3 not be yours, but you were there well before 2:30 in the
4 morning; correct?

5 A I'm -- I'm assuming, sir. I don't remember the time.

6 Q And did you have an occasion to observe -- you said
7 you checked him for life; correct?

8 A Yes, sir.

9 Q And you didn't believe there was -- he was dead; right?

10 A Yes, sir.

11 Q And did you -- at any time, did you notice anything
12 around his body that -- that didn't seem right --

13 A I --

14 Q -- a pistol, anything like that?

15 A -- didn't look around his body. I done as little
16 around that area as I needed to and then moved away, so
17 the paramedics could get in there and properly check him.
18 And then it was ID's job.

19 Q And, at any time, did you check the ID of these other
20 gentlemen that were beside him?

21 A No, sir. Like I said, another deputy went to the
22 residence.

23 Q With those gentlemen?

24 A Yes, sir, where those gentlemen were staying.

25 Q Okay. Do you know if he identified --

1 A I don't --

2 Q -- or searched them?

3 A Not to my knowledge. I don't know. I didn't ask
4 him.

5 Q And you didn't search either one of them when you
6 were --

7 A No, sir.

8 Q All right. When you're -- when you're en route, what
9 is your knowledge that -- that's conveyed to you? What do
10 you know? You just know there's been a shooting?

11 A I just know there's been a shooting. That -- that
12 was all that was conveyed to me.

13 Q And you indicated there were several things in the
14 road. Those were cartridges?

15 A Yes, sir. Those were shell casings.

16 Q Casings. And were you the one that marked the
17 casings?

18 A No, sir.

19 Q You weren't?

20 A No, sir.

21 Q And how long would you say you were on the scene?

22 A I was pretty much there the rest of the morning. I
23 got relieved at a little after 7:00.

24 Q Okay. So you guys had to stay until daylight?

25 A Yes, sir.

1 Q Okay. At --

2 A I was there.

3 Q At any time, did you interview any of the folks
4 around --

5 A The only lady I talked to was Ms. Anitra Geter. And
6 I only spoke to her briefly, because she was the one who,
7 actually, called 911 just -- just to get what she saw.

8 Q And she -- she lived in one of the houses?

9 A She lived in the house that I sent the two gentlemen
10 to, yes, sir.

11 Q And so you -- you didn't have any -- when you got
12 there, you were there probably before any other officer
13 sooner than -- just briefly after the incident occurred.
14 How many people would you estimate was on the scene?

15 A When I arrived?

16 Q Yes, sir.

17 A I only seen the two black males, and two people on
18 the porch, I believe, of the house.

19 Q And, at some point, did a crowd, eventually, gather?

20 A Yes, sir.

21 MR. THOMPSON: I have no further questions.

22 REDIRECT EXAMINATION

23 BY MS. MABBS:

24 Q Deputy Shehan, when you said a crowd gathered, just
25 to clarify, was that inside or outside the --

1 A It was outside the crime scene.

2 Q And, Deputy Shehan, I know we discussed earlier that,
3 as the first deputy on scene, you had a lot of
4 responsibilities as far as securing that scene, and things
5 like that?

6 A Yes, ma'am.

7 Q Do you do that all by yourself, or do you delegate
8 some of those duties?

9 A I delegate. I sent one deputy to the house to speak
10 to those gentlemen. I had different deputies blocking off
11 roadways, setting up tape, things of that nature.

12 Q And, at the -- at the end of the day, do you keep
13 this case, or does it get turned over to an investigator?

14 A It gets turned over.

15 Q And is that what happened in this case?

16 A Yes, ma'am.

17 MS. MABBS: Nothing further, Your Honor.

18 MR. THOMPSON: Briefly, Your Honor.

19 RECROSS-EXAMINATION

20 BY MR. THOMPSON:

21 Q Did you gather any evidence at the scene?

22 A No, sir, I did not.

23 THE COURT: You may step down.

24 MS. MABBS: And, Your Honor, may he be released from
25 his subpoena?

1 THE COURT: He may be.

2 MR. THOMPSON: No objection.

3 MR. HUNTER: Your Honor, may I step outside? I
4 believe we have a few witnesses out there.

5 THE COURT: Yes.

6 (Pause.)

7 MR. HUNTER: Your Honor, the State calls Sergeant
8 Michael Rainey.

9 WHEREUPON,

10 MICHAEL RAINEY,

11 after first having been duly sworn, testified as follows:

12 THE CLERK: Have a seat.

13 DIRECT EXAMINATION

14 BY MR. HUNTER:

15 Q You're going to have to speak up because sometimes
16 that microphone doesn't pick up voices. Okay.

17 A All right.

18 Q Please state your full name for the record.

19 A Sergeant Michael Rainey.

20 Q Okay. And how are you employed?

21 A Sergeant with the Greenville County Sheriff's Office.

22 Q Okay. And how long have you been with the Greenville
23 County Sheriff's Office?

24 A 22 years.

25 Q And what are your duties at the Greenville County

1 Sheriff's Office?

2 A Sergeant over the computer crimes unit.

3 Q Okay. And what are your duties as the sergeant over
4 the computer crimes unit?

5 A I do computer and cell phone forensics. I, also,
6 supervise other members inside the unit.

7 Q Okay. What -- what are cell phone forensics that you
8 perform?

9 A We do forensic or cell phone downloads from cell
10 phones, extract the data from the phone and place it on to
11 a readable format for investigators to look at.

12 Q Okay. Now, are you -- did you take any type of
13 classes or certifications to be able to do that?

14 A Yes, sir, I did.

15 Q And what type of classes did you take?

16 A Depending on the program we use, I have taken cell
17 phone forensics for mobilized and Cellebrite, which is a
18 cell phone forensics tool through Cellebrite, also,
19 through the United States Secret Service Computer Crimes
20 Unit.

21 Q Okay. How long are those classes?

22 A Usually a week for Cellebrite. Mobilized was a two-
23 or three-day course.

24 Q Okay. Did you happen to receive a call from
25 Investigator William Gary back in 2015?

1 A Yes, I did.

2 Q Okay. Did he forward you a cell phone and a search
3 warrant?

4 A Yes.

5 Q I'm going to show you what's been pre-marked as
6 State's Exhibit Nos. 18 and 19. Do you recognize those
7 items? You can open them up, if you need to.

8 A Yes. This is a disk that I provided with my
9 signature and initials on it.

10 Q Okay. And do the numbers from the evidence form for
11 the disk match the numbers on the evidence form for the
12 cell phone that's been provided?

13 A Yes, sir, they do.

14 Q Okay. So did you perform an extraction on that cell
15 phone?

16 A Yes, I did.

17 Q Okay. Can you briefly -- did you use both mobilized
18 and Cellebrite in this case?

19 A Yes. I believe I did.

20 Q Okay. Can you briefly go over how you perform a
21 mobilized extraction versus a Cellebrite extraction?

22 A Mobilized software is computer based. So it runs off
23 of a computer. In my case, I run it off of a Mac laptop.
24 I launch the program on the computer, plug the cell phone
25 into the computer, and launch the -- the software program.

1 It extracts the data off of the phone into a read-only
2 format. Thus, I cannot change the data. I generate the
3 report from it, place the report onto a disk, and turn it
4 over to the investigator.

5 Q Okay. Is that similar to what you do with
6 Cellebrite?

7 A Yes, sir. The difference with Cellebrite is -- is
8 a -- our -- our version of Cellebrite -- they have two
9 different versions. They have a computer-based version
10 and they, also, have a standalone machine. We use the
11 standalone machine. The programs are very much similar
12 programs.

13 You turn the Cellebrite machine on, you plug the
14 phone into the machine. It extracts the data onto a thumb
15 drive. At which point, I take the thumb drive, plug it
16 into our forensics machine and generate the report, place
17 it on a disk, and turn it over to the investigator.

18 Q And the reports are going to show similar items on
19 the cell phones?

20 A Yes.

21 Q Okay. What's one thing that Cellebrite's going to
22 show that mobilized does not?

23 A Cellebrite goes a little bit further in -- in
24 detailing in depth and shows -- depending on the make and
25 model of the phone, it can retrieve deleted information

1 off the phones and mobilized does not.

2 Q I'm going to show you what's been pre-marked as
3 State's Exhibit Nos. 16 and 17. Do you recognize those
4 items?

5 A Yes. These are extraction reports.

6 Q Now, are those going to be extraction reports from
7 Cellebrite or from mobilized?

8 A These appear to be from Cellebrite.

9 Q Okay. And how do you know that?

10 A The format is laid out a little bit different. But,
11 also, there are some deleted markings on Page 2 of State's
12 Exhibit No. 16 and, also, on Page 3 of 17.

13 Q Okay. And do those items fairly and accurately
14 depict just part of the Cellebrite examination that you
15 did on the phone in front of you?

16 A Yes, sir.

17 MR. HUNTER: Okay. Your Honor, at this time, the
18 State would offer State's Exhibit Nos. 16, 17, and 18 into
19 evidence.

20 MR. THOMPSON: If I can just review them.

21 THE COURT: State's Exhibit Nos. 16 and 17 are the
22 reports. What's State's Exhibit No. 18?

23 MR. HUNTER: State's Exhibit No. 18 is the cell
24 phone, Your Honor.

25 MR. THOMPSON: No objection.

1 THE COURT: They're admitted, State's Exhibit
2 Nos. 16, 17, and 18.

3 (WHEREUPON, State's Exhibit Nos. 16, 17, and 18 were
4 admitted into evidence.)

5 BY MR. HUNTER:

6 Q Obviously, you're with the Greenville County
7 Sheriff's Office; correct?

8 A Yes, sir.

9 Q And so, for the most part, you probably don't have
10 any clue what this specific case is about?

11 A No, sir. I was called in reference to extracting the
12 information from the phone. And I was advised they
13 needed -- [inaudible] the information off the phone.

14 THE COURT: Let me ask you to try to get closer to
15 that microphone, please.

16 THE WITNESS: I'm sorry.

17 BY MR. HUNTER:

18 Q Just bend down a little bit when you speak.

19 Can you look at State's Exhibit No. 16?

20 A Yes, sir.

21 Q Does State's Exhibit No. 16 show incoming or outgoing
22 calls?

23 A Incoming.

24 Q Okay. Are there any deleted phone calls in the
25 incoming phone call list?

1 A There's one deleted on Page 2.

2 Q Okay. And what phone number called the phone?

3 A Area code 864, 553-3693.

4 Q And at what time did that phone call occur?

5 A On 7/25/2015 at 5:17:31 a.m. UTC time.

6 Q Can you explain to the jury what UTC time is?

7 A It's universal -- or correlated universal time. It
8 is a standard -- the standard format for time. We're in
9 UTC time minus five hours. It correlates back to eastern
10 standard time.

11 Q Are we minus four hours?

12 A Depending on -- on time -- on your time zone. If
13 we're in daylight savings time, four to five hours.

14 Q In July of 2015, it would have been UTC minus four
15 hours?

16 A Yes, sir. That would be correct.

17 Q Okay. So what time did this phone receive an
18 incoming phone call from that number in eastern standard
19 time?

20 A So it would be four hours back from -- from the time
21 that it's indicating at 5:17, so 1:17.

22 Q 1:17 in the morning on July 25th?

23 A Correct.

24 Q Okay. Now, again, State's Exhibit No. 17, these are
25 the outgoing phone calls from this phone. Are there any

1 deleted phone calls in this report?

2 A Yes. There are two on Page 3 of this -- this form.

3 Q And is it from the -- is it an outgoing phone call to
4 that same exact number that you read from the incoming
5 phone calls?

6 A Yes, it is.

7 Q Okay. And what time were those calls made?

8 A 5:12:51 a.m. on the 25th, and 5:12:05 on the 25th.

9 Q So at 1:12 eastern standard time on July 25th, 2015?

10 A Correct. Yes, sir.

11 MR. HUNTER: Please answer any questions Mr. Thompson
12 may have for you.

13 MR. THOMPSON: May it please the Court, Your Honor.

14 THE COURT: Yes, sir.

15 CROSS-EXAMINATION

16 BY MR. THOMPSON:

17 Q Officer Rainey, you're -- you received the phone and
18 then you apply those two programs to download whatever
19 information you're looking for; is that right?

20 A That is correct, sir.

21 Q Okay. And, basically, you're going to get a printout
22 of that phone's activity; correct?

23 A Yes, sir. It's -- it generates the report. And we
24 put it on a disk.

25 Q Okay. But you had no idea -- you had no way of

1 knowing exactly who's had access to any of these phones,
2 or who's at those numbers, or anything; correct?

3 A No, sir.

4 Q And then these two courses you took, Cellebrite and
5 the other, those -- those don't qualify you as an expert
6 witness, or anything. You've never been qualified as an
7 expert in this area, this field, have you?

8 A No, sir. I've been trained to use these programs by
9 the manufacturer.

10 Q Okay. And you indicated that -- and daylight savings
11 time, do we go back four or five hours?

12 A It -- it depends on -- on when we do the -- when we
13 do the exam if we're in daylight savings time or not.

14 Q Okay. And do you recall if July 25th was daylight
15 savings time?

16 A I believe we were -- we were four hours back.

17 Q Four hours?

18 A Yes, sir.

19 Q You believe?

20 A That would be correct.

21 MR. THOMPSON: Okay. I have no further questions.

22 MR. HUNTER: No questions, Your Honor.

23 THE COURT: You may step down.

24 MR. HUNTER: May Sergeant Rainey be excused?

25 THE COURT: He may be.

1 MR. THOMPSON: No objection.

2 THE COURT: We're going to take a short break. I'll
3 ask the jury to, please, go to your jury room. You can't
4 discuss the case. You can only do that during jury
5 deliberations. So don't talk about the case while you're
6 on your break. And we'll bring you back to continue
7 shortly.

8 (WHEREUPON, the jury was excused from open court at
9 approximately 11:23 a.m.)

10 THE COURT: We'll be in recess for 15 minutes.

11 In 15 minutes -- those who are spectating, you're
12 welcome to go outside, if you like. In 15 minutes, when
13 we start back, the door is going to shut. So if
14 you're not in the courtroom in 15 minutes, you don't come
15 in.

16 Court's in recess for 15 minutes.

17 (WHEREUPON, a break was taken.)

18 THE COURT: Are we ready for the jury?

19 MR. HUNTER: Yes, Your Honor.

20 (WHEREUPON, the jury came into open court at
21 approximately 11:43 a.m.)

22 THE COURT: The jury's present.

23 You may proceed.

24 MS. MABBS: Thank you, Your Honor.

25 The State calls Christopher Bryson.

1 WHEREUPON,

2 CHRISTOPHER BRYSON,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: Be seated.

5 THE COURT: Mr. Bryson, please, keep you voice up.
6 That microphone doesn't work very well. But do the best
7 you can with it.

8 THE WITNESS: Yes, sir.

9 DIRECT EXAMINATION

10 BY MS. MABBS:

11 Q Mr. Bryson, I'm going to stand back here, so try and
12 speak loudly enough so I can hear you.

13 Can you introduce yourself to the jury, please?

14 A My name is Christopher Bryson.

15 Q And, Mr. Bryson, how old are you?

16 A 31.

17 Q And do you live in Spartanburg County?

18 A No, I do not.

19 Q Where do you live?

20 A Travelers Rest.

21 Q Mr. Bryson, do you remember where you were on the
22 night of July 25th, 2015?

23 A Yes, I do.

24 Q And where was that?

25 A I was at a friend's house.

1 Q And where was that friend's house?

2 A On Howard Street.

3 Q Here in Spartanburg?

4 A Yes, ma'am.

5 Q And what were you doing at your friend's house?

6 A We was drinking.

7 Q And, Mr. Bryson, before -- do you know the Defendant
8 in this case?

9 A No, I do not.

10 Q Do you know any of the victims in this case?

11 A No, I do not.

12 Q Do you, normally, even hang out in Spartanburg
13 County?

14 A No, ma'am.

15 Q And who were you -- I know you said a friend. What
16 was your friend's name?

17 A Jose.

18 Q And while you were at Jose's house, Mr. Bryson, did
19 you see anything unusual that night?

20 A Not until after the event.

21 Q And what did you see?

22 A Well, we was drinking. We was talking like usual. I
23 noticed two guys walk towards Spartanburg, downtown
24 Spartanburg, towards that way. And then I don't know how
25 long it took, but they had three other guys with them.

1 They walked back towards the house, or whatever.

2 And then we heard a couple shots a couple minutes
3 later. And I seen two run towards the woods. And the
4 other three ran down the street.

5 Q Okay. Now, you said, initially, you saw two men
6 walking down Howard Street towards the city?

7 A Yes, ma'am.

8 Q Do you know what race those men were?

9 A They was black.

10 Q And when you were at your friend's house, were you
11 inside the house or outside?

12 A We was outside the house.

13 Q And when you saw them walk back, could you -- could
14 you tell what race the other men were who walked back with
15 them?

16 A They all was black.

17 Q Did you recognize anyone in that group as someone you
18 knew?

19 A No, I did not.

20 Q Okay. But you were able to tell that the two men who
21 walked down were included in that group that came back?

22 A Yes.

23 Q And, Mr. Bryson, you said you heard gunshots. Do you
24 recall approximately how many?

25 A No. I do not.

1 Q Was it more than five? Less than five?

2 A Yes. But I can't --

3 Q That's fine. If you don't remember, that's fine.

4 And, Mr. Bryson, when you said you saw the men
5 running again, were they running back towards the city or
6 away from the city?

7 A Towards the city.

8 Q And how many men, from what you could see, had
9 weapons?

10 A Two.

11 Q And -- and you said those men were shooting behind
12 them?

13 A Yeah, running forward shooting like this.

14 Q And so running with their arms behind them shooting
15 backwards?

16 A Correct.

17 Q Okay. And so then they would be shooting, I guess,
18 away from the city down Howard Street?

19 A Correct.

20 Q And -- and, Mr. Bryson, do you know -- I know you
21 said you were at your friend's house. But was it on
22 Howard Street, or do you know the address of that house?

23 A No. I do not know the address exactly.

24 Q Do you know from, I guess, probably when you left
25 that residence about how close that house was from where

1 the body was recovered from [REDACTED] ?

2 A It's, like, one street down.

3 Q Okay. One street down, I guess, towards the city
4 then?

5 A Towards the city, yes.

6 Q And, Mr. Bryson, I know it's kind of hard since
7 you're sitting down. If you wouldn't mind just standing
8 up off the stand, and just kind of show the jury what you
9 meant about shooting behind when they were running down
10 the street?

11 A (Witness indicted.)

12 Q Okay. They would be running, I guess, in the
13 direction you're standing towards the jury?

14 A They would be running towards Spartanburg.

15 Q Okay. And were they looking behind them as they were
16 running, or were they --

17 A They was running.

18 Q Okay. Could you tell if they were looking, I guess,
19 where they were running, or if they were looking back?

20 A They was looking where they was running.

21 MS. MABBS: Thank you.

22 Your Honor, I have no further questions at this time.

23 Please answer any questions Mr. Thompson may have for
24 you.

25 MR. THOMPSON: May it please the Court.

CROSS-EXAMINATION

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BY MR. THOMPSON:

Q Mr. Bryson, you indicated you were at Jose's house?

A That's correct.

Q And you don't know his address?

A No, I do not.

Q Does he have a Howard Street address, or did you say he was a street over?

A It's on Howard Street.

Q Okay.

A But the address would not be on Howard Street.

Q So --

A It's a side house. So the road or front is not on Howard Street.

Q So his front porch would face that side road, instead of Howard Street?

A Correct.

Q So you would have seen the back of these men walking towards Spartanburg, or the front of them?

A The way we was standing, we'd have seen the side view of them as they walked and came back.

Q Okay. So they walked towards Spartanburg and back?

A Correct.

Q Are you sure that was the same two guys?

A Yes.

1 Q And then you saw these folks again and they were with
2 three other guys?

3 A Correct.

4 Q And then that's the same five you saw run away
5 towards the city?

6 A Uh-huh.

7 Q So you saw five approach and go past Jose's home;
8 correct?

9 A Yes. On the way back, five.

10 Q Right. And then five that ran past?

11 A Correct.

12 Q And just doing the shooting; correct?

13 A Uh-huh.

14 Q Do you recall, you know, were these guys big guys?
15 Little guys? Do you remember any description?

16 A I remember there was two that had dreads and just
17 white T's. Mostly, they had white T's on.

18 Q Two had white T's, or all?

19 A Mostly, all of them, as I can recall.

20 Q Was it sleeveless tank tops or just T-shirts?

21 A Like T-shirts.

22 Q Okay. And you -- you couldn't pick out who these
23 guys were? I mean, you're not from Spartanburg; right?

24 A Right.

25 Q And you just -- you and Jose were hanging out. Had

1 you guys been anywhere before?

2 A Not in Spartanburg, unless it's at his house.

3 MR. THOMPSON: Can we approach, Your Honor?

4 (WHEREUPON, a bench conference was held.)

5 BY MR. THOMPSON:

6 Q Mr. Bryson, now, you indicated that you heard some
7 shots, but you don't know how many?

8 A That's correct.

9 Q And were those behind you? In front of you?

10 A The way we was standing, it'd be to the right of me.

11 Q The right of you?

12 A Yes. The way we was standing, it'd be to the right
13 of me.

14 Q Okay. So just let me get an understanding of this.

15 If -- right through here is Howard Street. And the city
16 is back here. Is Jose's house, like, on the corner of
17 Howard Street and another street?

18 A Yes.

19 Q Okay. And does his front door go out to that road?

20 A Yes.

21 Q Okay. So his front door would be facing the city?

22 A No. It's facing the opposite direction.

23 Q Facing -- I'll call it California Avenue?

24 A Yes.

25 Q Okay. It faces this. Were you -- were you guys

1 standing on the porch there?

2 A We was standing by my car.

3 Q Okay. In the driveway?

4 A Yeah, in the driveway.

5 Q Did you hear any of these folks speak or say
6 anything?

7 A Not from where I was standing, no.

8 Q And it was about 1:30 in the morning?

9 A I'm not aware of the time.

10 Q But it was pretty dark; right?

11 A Correct.

12 Q Is there any way you possibly could have mistaken a
13 black male for a Hispanic male in the dark?

14 A There's not any way. But it was just dark.

15 Q So you were close enough to determine that two guys
16 had -- were shooting. Was that because you saw guns, or
17 you just saw the gunfire?

18 A I saw the gunfire.

19 Q And when these guys are running, did it appear that
20 they were shooting and hitting the ground?

21 A I can't say.

22 Q Did you have an -- did you have an occasion to go to
23 the crime scene at any time?

24 A When the cops -- the police officer showed up, we
25 did, eventually, go there. My friend, he called the cops,

1 too.

2 Q But not -- not until you were summoned by the
3 officer; correct?

4 A Correct.

5 MR. THOMPSON: I have no further questions.

6 REDIRECT EXAMINATION

7 BY MS. MABBS:

8 Q Mr. Bryson, I'm going to show you what has been
9 marked as State's Exhibit No. 1. Can you -- do you
10 recognize what that area is?

11 A Yes.

12 Q Is that Howard Street?

13 A Yes.

14 Q Now, are you able to tell from that aerial photo
15 about where your friend's house was?

16 A Maybe right -- I think it'd be right about here.

17 Q And, as far as you know, that's a fair and accurate
18 depiction of Howard Street?

19 A Yes.

20 MS. MABBS: Your Honor, permission -- or the State
21 moves State's Exhibit No. 1 into evidence.

22 MR. THOMPSON: I'll review it to make sure it's...

23 ; (Pause.)

24 MR. THOMPSON: No objection.

25 THE COURT: It's admitted.

1 MS. MABBS: Thank you.

2 (WHEREUPON, State's Exhibit No. 1 was admitted into
3 evidence.)

4 BY MS. MABBS:

5 Q Mr. Bryson, if you wouldn't mind just stepping down
6 here for a moment.

7 THE COURT: Mr. Bryson, what I'm going to need you to
8 do -- do you see that microphone hanging down from the
9 ceiling?

10 THE WITNESS: Yes.

11 THE COURT: I need you to look towards the screen and
12 get under that microphone --

13 MS. MABBS: Yes. If you would just stand right
14 there --

15 THE COURT: -- and kind of project your voice up.
16 And it will pick it up, hopefully.

17 BY MS. MABBS:

18 Q And, Mr. Bryson, this here is a pointer. If you
19 would just push that button, it'll -- if you wouldn't mind
20 using the pointer, can you kind of show us on that where
21 the house you were standing at was?

22 A (Witness indicated.)

23 Q So it's that last little one that's kind of cut off?

24 A Yes, ma'am.

25 Q All right. And then Spartanburg, the city, would be

1 down below that?

2 A (Witness nodded.)

3 MS. MABBS: All right. Thank you, Mr. Bryson.

4 You may have a seat.

5 Your Honor, I have no further questions.

6 THE COURT: Anything else from this witness?

7 MR. THOMPSON: Briefly, Your Honor.

8 RECROSS-EXAMINATION

9 BY MR. THOMPSON:

10 Q Now, when these guys were running back to the city,
11 were you able to get a good enough look to say whether the
12 guys with dreadlocks were shooting, or the other guys were
13 shooting? Could you determine that?

14 A No, sir, I could not.

15 MR. THOMPSON: Okay. No further questions.

16 THE COURT: You can step down.

17 Thank you.

18 MS. MABBS: Your Honor, may Mr. Bryson be excused?

19 THE COURT: He may be.

20 MS. MABBS: Thank you.

21 MR. HUNTER: Your Honor, at this time, the State
22 would call Lathier Graham.

23 WHEREUPON,

24 LATHIER GRAHAM,

25 after first having been duly sworn, testified as follows:

1 THE CLERK: Have a seat.

2 DIRECT EXAMINATION

3 BY MR. HUNTER:

4 Q Please speak up loudly and give us your full name and
5 rank.

6 A Lathier Graham. I am a master deputy at the
7 Spartanburg County Sheriff's Office.

8 Q All right. How long have you been employed with the
9 Spartanburg County Sheriff's Office?

10 A 12 years, one month.

11 Q Okay. And in those 12 years and one month, what have
12 your duties been?

13 A The first three years, I was uniform patrol. I
14 patrolled Boiling Springs, Cowpens, Chesnee, the northeast
15 area of the county. The last several years, I've been
16 with the crime scene unit.

17 Q Okay. How many years have you been with the crime
18 scene unit?

19 A Almost -- right at nine.

20 Q Okay. We watched a video in here earlier, Deputy
21 Shehan's body camera video. Did you watch that video?

22 A Yes, sir, I did.

23 Q Did you see yourself in that video?

24 A Yes, sir, I did.

25 Q I believe Ms. Mabbs asked the question about somebody

1 said they were excited because they heard a noise. Was
2 that you?

3 A Yes, sir, it was.

4 Q Why were you excited?

5 A My job is to find, collect, preserve all evidence
6 dealing with every crime. So when I find evidence, I get
7 a little excited.

8 Q Okay. What were you, specifically, talking about on
9 that -- at that time?

10 A Shell casings in the roadway.

11 Q Okay. Now, I noticed you can kind of hear metal
12 clinking. What was that?

13 A Shell casings in the roadway.

14 Q Okay. Was it being moved?

15 A When I exited my vehicle, yes, sir, it did.

16 Q By accident?

17 A Yes, sir.

18 Q Okay. You, also, watched that video. Had cars
19 already come through the crime scene at this point?

20 A Yes, sir, it has [sic].

21 Q Okay. So even though you collected the evidence in
22 this case, the evidence had been moved from the
23 original --- could have been moved from the original crime
24 scene?

25 A Yes, sir.

1 Q By cars or people walking through the street?

2 A Yes, sir.

3 Q Okay. What did you first see when you arrived?

4 A I first arrived -- I was coming from the city
5 direction towards Magnolia and -- and Howard Street. And
6 as I was coming up the road, dispatch gave out the
7 shooting call. I immediately went en route priority,
8 lights and sirens. As I approached the scene, I saw
9 Deputy Shehan. I pulled up on the side of the road.

10 In the video, you saw my Tahoe pull up on the side of
11 the road. I immediately got out. I saw Deputy Shehan
12 with the decedent. I then turned around and exited my
13 vehicle. And that's when I heard the clink as I stepped
14 in the roadway, which was a shell -- indicating there was
15 a shell casing or something in the road that shouldn't
16 have been there.

17 Q Okay.

18 A And I didn't see anybody else. I was pretty much
19 focused on my evidence at that point.

20 Q Okay. Do you know what time you arrived?

21 A According to my report -- and every report that I do
22 with the sheriff's office, I always get my times from
23 dispatch. And I, also, check my watch. It was 0:35 in
24 the morning.

25 Q 0:35 or 01:35?

1 A Excuse me. I'm sorry. 01:35. I'm sorry.

2 Q Okay. Once you see that there are shell casings on
3 the street, what do you -- what do you then start doing?

4 A I immediately started -- I went back to my truck,
5 grabbed my placards, my numbered placards. We have
6 numbers one through 50. I automatically got those out and
7 started placing them by the evidence so we knew where the
8 evidence was. And I stopped EMS and all other traffic
9 from coming down the road.

10 Q Okay. And did you contact anybody?

11 A I contacted Investigator Nix, who was on call for
12 homicides at that time. I was part of his on-call team.
13 I contacted him by phone and let him know what I had.

14 Q Okay. Did you start -- when he showed up, what did
15 you do with him?

16 A I then turned around and walked Investigator Nix
17 through the crime scene showing him the evidence, what I
18 had discovered. And I gave him all the information I had
19 thus far.

20 Q Okay. Did you collect the majority of the evidence
21 in this case --

22 A Yes, sir, I did.

23 Q -- from the scene?

24 A Yes, sir.

25 Q Okay. I'm going to show you what's been marked

1 State's Exhibit Nos. 20 through 35, and 37, 38, 39, and
2 40. Can you look at those two stacks for a minute?

3 A (Witness complied.)

4 Q Do you recognize all those items?

5 A Yes, sir, I do.

6 Q And how do you recognize those items?

7 A Those were the shell casings that were in the roadway
8 that I collected.

9 Q Okay. Those were some of the shell casings?

10 A Some of the shell casings, yes, sir.

11 Q Okay. Do all of those shell casings have something
12 in common?

13 A Yes, sir, they do.

14 Q And what is that?

15 A They're all nine millimeter.

16 Q Those are all nine-millimeter shell casings?

17 A Yes, sir.

18 Q Okay. And how many nine-millimeter shell casings did
19 you collect from this scene? So State's Exhibit Nos. 20
20 through 35, and then the extra four?

21 A Yes, sir.

22 Q Where did you collect those shell casings?

23 A This stack to my left was collected at the
24 intersections of Howard Street and Wayland Street. The
25 stack to my right were all located on Howard Street, but

1 in the middle of the roadway, no particular intersection
2 or address involved.

3 Q Can you kind of point to the area where you found the
4 first 14 or 15 shell casings?

5 A The first 15 or so shell casings were in this
6 immediate area here, from here down to here.

7 Q All right. And the next four shell casings, you
8 don't find until later the next morning; is that correct?

9 A Yes. When we did our second walk through, they were
10 located down this way.

11 Q Closer down to Jose's house where Mr. Bryson just
12 testified --

13 A Correct.

14 Q Did you take pictures that day?

15 A Investigator Nix did.

16 Q Okay. Were you present with him when he took those
17 pictures?

18 A Yes, sir, I was.

19 Q Okay. Deputy Graham, I'm going to show you what's
20 been pre-marked as State's Exhibit Nos. 3, 4, 5, 8, 10,
21 12, 13, 14, and 15. Do you recognize all those items?

22 A Yes, sir, I do.

23 Q And they are all pictures of the crime scene as you
24 remember it?

25 A Yes, sir.

1 Q And do they fairly -- fairly and accurately depict
2 the crime scene on July 25th, 2015, and the morning of?

3 A Yes, sir.

4 MR. HUNTER: Your Honor, at this time, the State
5 would offer State's Exhibit Nos. 3, 4, 5, 8, 10, 12, 13,
6 14, and 15 into evidence.

7 MR. THOMPSON: I'll object to State's Exhibit No. 14,
8 Your Honor. I believe the prejudicial effects far
9 outweigh any probative value.

10 THE COURT: Well, let me see.

11 The objection is overruled.

12 State's Exhibit Nos. 3, 4, 5, 8, 10, 12, 13, 14, and
13 15 are admitted.

14 (WHEREUPON, State's Exhibit Nos. 3, 4, 5, 8, 10, 12,
15 13, 14, and 15 were admitted into evidence.)

16 BY MR. HUNTER:

17 Q The first picture I'm going to put up is State's
18 Exhibit No. 13. Do you recognize that scene?

19 A Yes, sir, I do.

20 Q Can you tell us what direction we are looking at?

21 A If you're facing towards -- going back towards
22 Spartanburg city on Howard Street.

23 Q Are we facing towards -- are we facing towards
24 Spartanburg County at this point?

25 A No. The vehicle -- may I use your --

1 Q Yes.

2 THE COURT: Mr. Graham, would it be helpful if you
3 stood down from the stand? Use this microphone hanging
4 from the ceiling.

5 THE WITNESS: The vehicle right here would be my
6 vehicle. This was coming back from -- toward -- I'm
7 sorry. I take that back. This is going -- this is Deputy
8 Shehan's vehicle coming back this way. It's coming back
9 from the sheriff's office. The lights you see here in the
10 back is coming up Howard Street back towards California
11 Avenue.

12 So this direction when I numbered them would be one,
13 two, three going back down Howard Street towards the city.

14 BY MR. HUNTER:

15 Q So you're -- your back -- the back of the
16 photographer is towards the city?

17 A Yes.

18 Q Okay. And those are the placards that you placed out
19 into the roadway of Howard Street?

20 A Yes, sir, it is.

21 Q Okay. And those -- the one, two, three, and some of
22 the other ones we see, those are shell casings?

23 A Yes.

24 Q Okay. You can stay down here.

25 This is State's Exhibit No. 14. What do we observe

1 there?

2 A That would be the decedent.

3 Q Okay. So we are facing -- again, we are facing the
4 city of Spartanburg at this point?

5 A Yes, sir.

6 Q Okay. Again, those are shell casings, those bright
7 yellow lights we see at the top?

8 A Yes, sir. Those are the numbered placards.

9 Q And I know they're kind of hard to see, but there's a
10 placard there?

11 A That right there is the reflector in the roadway.

12 Q Okay. What are we looking at there?

13 A Here was blood stain. There was blood stain. And
14 that was a fired projectile.

15 Q Okay. And what is the building we are looking at?

16 A That's [REDACTED].

17 Q So that's the residence where this murder occurred in
18 front of?

19 A Yes, sir.

20 Q And you said State's Exhibit Nos. 26 and 30 were
21 blood stains?

22 A Yes, sir.

23 Q And number 27 was a fired projectile?

24 A Yes, sir. It struck the house and stopped right
25 there.

1 Q I'm going to show you what's been pre-marked as
2 State's Exhibit No. 50. Do you recognize this item?

3 A Yes, sir, I do.

4 Q And how do you recognize that item?

5 A It was numbered item 27. And it's a fired
6 projectile --

7 THE COURT: Excuse me. But, now, don't forget about
8 the microphone.

9 THE WITNESS: Oh, yes, sir. I'm sorry.

10 THE COURT: Don't -- don't turn your back towards the
11 court reporter. Just try to turn -- yes, one way or
12 another.

13 THE WITNESS: Is this good, Judge?

14 THE COURT: That's good.

15 THE WITNESS: This is item number 27. It is a fired
16 cartridge from the front porch right there at [REDACTED]

17 BY MR. HUNTER:

18 Q And when you collected this, what did you do with it?

19 A I placed it in that envelope, placed it -- after we
20 photographed and collected it, I placed it in that small
21 envelope. I placed it into the big evidence envelope and
22 secured it in our vehicle.

23 Q Okay. And then after that -- is this what you do
24 with all the evidence that you collect?

25 A Yes, sir, it is.

1 Q And what do you do with it after you take it from
2 your vehicle?

3 A We transport it to the sheriff's office, secure it in
4 our room to be entered into the evidence department.

5 Q Okay. And there's some other numbers on here. Did
6 you put these numbers on this plastic bag on here?

7 A Yes, sir. That would be the numbers of the time I
8 collected --

9 Q Okay. But on the plastic bag, did you put any of the
10 numbers on here? You can look at it.

11 A (Witness complied.)

12 Q Those aren't your initials, are they?

13 A No, sir, it's not.

14 Q These were sent down to SLED?

15 A Yes, sir.

16 MR. HUNTER: Your Honor, at this time, the State
17 would offer State's Exhibit No. 50 into evidence.

18 MR. THOMPSON: No objection.

19 THE COURT: It's admitted.

20 (WHEREUPON, State's Exhibit No. 50 was admitted into
21 evidence.)

22 BY MR. HUNTER:

23 Q So number 27 up there at the corner of the porch --

24 A Yes, sir.

25 Q -- you located this fired projectile?

1 A Yes, sir.

2 Q Okay. Can you, please, explain what this picture
3 shows?

4 A This is a tree in front of [REDACTED]. Here
5 is where I put my scale tape where a fired projectile
6 entered into the tree, item placard 24.

7 Q All right. I'm going to show you what's been
8 pre-marked as State's Exhibit No. 47. Do you recognize
9 that item?

10 A Yes, sir.

11 Q And how do you recognize that item?

12 A This is the fired projectile I recovered from the
13 tree.

14 Q All right. Is it in the same or substantially the
15 same condition as you recovered it?

16 A Yes, sir, it is.

17 Q All right. And, again, it's in a SLED bag, but it's
18 your initials on the brown paper bag, or your writing?

19 A Yes, sir.

20 MR. HUNTER: Your Honor, at this time, the State
21 would offer State's Exhibit No. 47 into evidence.

22 MR. THOMPSON: No objection.

23 THE COURT: State's Exhibit No. 47?

24 MR. HUNTER: State's Exhibit No. 47.

25 THE COURT: It's admitted.

1 (WHEREUPON, State's Exhibit No. 47 was admitted into
2 evidence.)

3 BY MR. HUNTER:

4 Q So this projectile was recovered from that tree?

5 A Yes, sir, it was. It was embedded right there.

6 Q I'm going to put State's Exhibit No. 5 back up here
7 real quick. Now, number 30 was blood. I'm going to show
8 you what's been marked as State's Exhibit No. 49. What
9 number of piece of evidence is that for you?

10 A Number 26.

11 Q Okay. So where was that -- what was that -- where
12 was that recovered?

13 A Right here.

14 Q Near the front steps?

15 A Yes.

16 Q All right. Is it in the same or substantially the
17 same condition that you found it?

18 A Yes, sir, it is.

19 Q And, again, that's something that you packaged,
20 placed into your vehicle, and then placed into evidence at
21 the Spartanburg County Sheriff's Office?

22 A Yes, sir.

23 MR. HUNTER: Your Honor, at this time, the State
24 would offer State's Exhibit No. 49 into evidence.

25 MR. THOMPSON: No objection.

1 THE COURT: It's admitted.

2 (WHEREUPON, State's Exhibit No. 49 was admitted into
3 evidence.)

4 BY MR. HUNTER:

5 Q Will you tell us what we're looking at here?

6 A This is the driveway of [REDACTED].

7 Q All right. The way you're looking at the body of
8 Mr. Hull would be behind this picture, behind the
9 photographer --

10 A Yes, sir.

11 Q -- and to the left?

12 All right. In the right of the yard, what number do
13 you see?

14 A Number 25.

15 Q Okay. And what are the numbers in the driveway?

16 A 23 and 29.

17 Q Okay. I'm going to hand you what's been marked as
18 State's Exhibit No. 48. Do you recognize that item?

19 A Item number 23, yes, sir.

20 Q Okay. And where was that recovered?

21 A Right there, just to the right of the driveway.

22 Q And did you follow those same procedures --

23 A Yes, sir.

24 Q -- with evidence where you packed it in your
25 vehicle --

1 A Yes, sir, I did.

2 Q -- and turned it into evidence to the Spartanburg
3 County Sheriff's Office?

4 A Yes, sir.

5 MR. HUNTER: Your Honor, at this time, the State
6 would offer State's Exhibit No. 48 into evidence.

7 MR. THOMPSON: No objection.

8 THE COURT: It's admitted.

9 (WHEREUPON, State's Exhibit No. 48 was admitted into
10 evidence.)

11 BY MR. HUNTER:

12 Q I'm going to show you a few other pictures here.
13 State's Exhibit No. 4, do you recognize that picture?

14 A Yes, sir.

15 Q Now, are we looking at [REDACTED] a little
16 bit from the side?

17 A Yes, sir, we are.

18 Q All right. Did you check to see if that truck had
19 any bullet holes?

20 A Yes, sir, I did.

21 Q Were you able to find any?

22 A No, sir, I was not.

23 Q State's Exhibit No. 8, do you recognize that?

24 A Yes, sir, I do.

25 Q What do we see there?

1 A It is just off to the right of the front of the porch
2 of [REDACTED]. It's the front side. And there is
3 a strike where it looks like there's been a bullet that
4 went through the interior -- exterior of the house.

5 Q Okay. Did you go to the interior of the house?

6 A I believe Investigator Nix did.

7 Q Okay. Were y'all able to uncover the bullet that
8 made that --

9 A No, sir, I don't believe so.

10 Q One last picture for you. What are we looking at
11 there?

12 A That is the corner of Howard Street and Lanier Street
13 and --

14 Q Now, that's the street that Mr. Panado [phonetic]
15 lives on that Mr. Bryson had spoken about; is that
16 correct?

17 A I assume so.

18 Q But what are we looking at in those pictures -- those
19 placards that are up from the --

20 A Those were the last four -- I believe the last four
21 shell casings that we collected that morning.

22 Q So they're a little bit away from the [REDACTED]
23 [REDACTED] address; is that correct?

24 A Yes, sir, it is. It would be back this way.

25 Q Okay. But, again, on the right side of the road

1 heading towards city is where they were recovered?

2 A Yes, sir.

3 Q Okay. And those are the last four nine-millimeter
4 casings that were recovered; correct?

5 A Yes, sir.

6 Q All right. You can take a seat.

7 A (Witness complied.)

8 Q All right. I'm now going to show you what's been
9 pre-marked as State's Exhibit Nos. 42 -- excuse me, 41
10 through 46. If you will take a look at those.

11 A (Witness complied.)

12 Q Do you recognize those items?

13 A Yes, sir, I do.

14 Q How do you recognize those items?

15 A Those were shell -- some of the shell casings that
16 were located in the roadway.

17 Q Okay. There were two types of shell casings located
18 in the -- or two -- just multiple types of shell casings
19 found in the roadway; correct?

20 A Yes.

21 Q What caliber of shell casings were recovered?

22 A The nine millimeter and .45 auto.

23 Q Those six in front of you, what was the caliber of
24 those shell casings?

25 A They're .45 auto.

1 Q Okay. And they were found along the roadway as well?

2 A Yes, sir.

3 Q Were they found on the side of the roadway heading
4 towards the city, or on the side of the roadway heading
5 back towards the county?

6 A I'm not quite sure.

7 Q Okay. But, at least, in the roadway?

8 A Yes.

9 Q Okay. When you collect those items, what do you do
10 again?

11 A I photograph them. I place them in small bags. I
12 then place them in the big evidence bags, secure them in
13 my vehicle until I'm ready to leave the scene, and
14 transport them to the sheriff's office.

15 Q Okay. Did you do that in this case with all of
16 those?

17 A Yes, sir, I did.

18 Q And when you get to the sheriff's office, what do you
19 do with them?

20 A I then fill out the rest of the evidence bag, do my
21 report, and place everything into the evidence locker.

22 Q Now, are they in the same or substantially the same
23 condition as you found them?

24 A Yes, sir.

25 MR. HUNTER: Your Honor, at this time, the State

1 would offer State's Exhibit Nos. 41 through 46 into
2 evidence.

3 MR. THOMPSON: No objection.

4 THE COURT: They're admitted.

5 (WHEREUPON, State's Exhibit Nos. 41, 42, 43, 44, 45,
6 and 46 were admitted into evidence.)

7 BY MR. HUNTER:

8 Q Can you look at those shell casings, Deputy Graham?

9 A Say it again.

10 Q Can you look at the shell casings?

11 A (Witness complied.)

12 Q Do you notice something different about some of those
13 shell casings compared to the others?

14 A Yes, sir.

15 Q What do you notice?

16 A Some of them are dented or misshapen.

17 Q And how long have you been in the ID department?

18 A About nine years.

19 Q So have you had the occasion to come to crime scenes
20 where projectiles and casings were found?

21 A Yes, sir.

22 Q Approximately how many times over your nine years?

23 A (There was no response.)

24 Q Hundreds?

25 A Hundreds.

1 Q Okay. What would make a dent on those casings?

2 A On some of them, it could be a vehicle or being
3 stepped on.

4 Q When a casing, initially, leaves the gun, how is it
5 going to come out?

6 A In the same manner as it was when it went in,
7 circular.

8 Q So, in this case, State's Exhibit No. 43, this one
9 doesn't appear to have been stepped on or moved by a car,
10 does it?

11 A No, sir.

12 Q And the same with State's Exhibit Nos. 41 and 46?

13 A Yes, sir.

14 Q However, with State's Exhibit Nos. 42, 44, and 45,
15 would you agree that these are not the way they came out
16 of the gun?

17 A Yes, sir, I would.

18 Q And that would be more common with someone stepping
19 on them, or a car driving over them?

20 A Yes, sir.

21 Q Okay. And when you first got to the scene, you
22 accidentally kicked one; is that correct?

23 A Yes, sir, I did.

24 MR. HUNTER: Okay. Hold on one second, Mr. Graham.

25 (Pause.)

1 MR. HUNTER: Please answer any questions Mr. Thompson
2 may have for you.

3 MR. THOMPSON: May it please the Court, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. THOMPSON:

6 Q Officer Graham, you indicated you arrived on the
7 scene at 1:35; is that correct?

8 A Yes, sir.

9 Q And do you recall how many folks were present at that
10 time?

11 A No, sir, not to my knowledge. The only person I knew
12 that was there was Deputy Shehan.

13 Q Okay. So Shehan was there prior --

14 A Prior to my arrival, yes, sir.

15 Q Okay. And you had indicated you believed that cars
16 had been through the area causing damage to the casings?

17 A Yes, sir.

18 Q And, now, these casings, they're hollowed out. Once
19 the gun fires, the casing drops out of the gun and it's
20 hollow; correct?

21 A Yes, sir.

22 Q And they're light enough if a car runs over, but the
23 tires don't hit them, they could move that cartridge
24 somewhere from its original falling place; correct?

25 A Yes, sir.

1 Q Okay. And you -- so you were aware that traffic had
2 been through the area; correct?

3 A Yes, sir.

4 Q And do you know if that truck was present at the time
5 of the shooting?

6 A It was there when I arrived, sitting in the driveway.
7 I'm not sure if it was there at the time of the shooting
8 or not.

9 Q And did you or Officer Shehan -- he said he didn't do
10 any canvas of the area or search for any suspects. Did
11 you initiate any of that either?

12 A No, sir.

13 Q And was it your report or someone else's where an
14 officer indicated they could hear the casings being run
15 over?

16 A That would probably be my report, sir.

17 Q Okay. That's when you stopped --

18 A Yes, sir.

19 Q -- all that and secured the scene; is that right?

20 A Yes, sir.

21 Q And the -- I believe it's State's Exhibit No. 50 --
22 I'm not sure what happened to it.

23 MR. THOMPSON: May I approach, Your Honor?

24 BY MR. THOMPSON:

25 Q That is State's Exhibit No. 50. Is that the one --

1 was that the one recovered from the porch?

2 A Yes, sir, it was.

3 Q What would cause a bullet to get that kind of damage?

4 A (There was no response.)

5 Q Do you know?

6 A I'm not a firearms expert, sir. I wouldn't know.

7 Q Okay. So you'd agree with me that's a pretty
8 extensively damaged bullet; right?

9 A Yes, sir.

10 Q I mean, that wasn't sitting on the porch. It had not
11 went into the home, or anything --

12 A Yes, sir. It was sitting on the porch.

13 Q Okay. And, as far as the bullets go, most -- all
14 these bullets here have some damage to them; correct? And
15 you retrieve a lot of bullets; correct?

16 A Yes, sir.

17 Q And is that normal for a bullet to receive the damage
18 like State's Exhibit Nos. 47 and 50 have right here?

19 A Yes, sir, upon striking something.

20 Q Okay. And when you put down your placards, did you
21 have -- and it may have been too dark. Were there any
22 marks on the road that looked like maybe some bullets had
23 hit the road?

24 A Not that I'm aware of at the time.

25 Q Okay. Now, to your -- now, basically, if that truck

1 had been there during the shooting, it probably would have
2 caught a bullet, would it not?

3 MR. HUNTER: Objection, Your Honor. That's
4 speculation.

5 THE COURT: Sustained.

6 BY MR. THOMPSON:

7 Q Based upon the direction of the bullets --

8 MR. HUNTER: Objection, Your Honor. Speculation.

9 MR. THOMPSON: You don't even know what I'm going to
10 ask.

11 THE COURT: Well, he's not a firearms expert. He's
12 just collecting evidence.

13 MR. THOMPSON: All right. I'll move on.

14 BY MR. THOMPSON:

15 Q The bullets at the intersection, is that the ones you
16 found later on after daylight?

17 A The bullets or the shell casings?

18 I found the shell casings later on during daylight.

19 Q During -- I mean, once the daylight came?

20 A Yes.

21 Q You were on the scene just like Mr. Shehan?

22 A Yes.

23 Q And -- and, at one point, are you the one that did
24 gunshot residue tests on the victim, Mr. Hull?

25 A Yes, sir, I was.

1 Q Okay. What does that involve?

2 A A gunshot residue test involves a kit that we get
3 pre-packaged from SLED that you take a dabber -- it's got
4 a dabber inside of it marked left hand, right hand, left
5 hand back, right hand back. You take it and you dab the
6 person's hand, whichever hand -- whatever dabber that
7 you're using, the left or right. You dab the person's
8 hand for their palm. You dab the person's hand for the
9 back. You stick it back in there, seal it up in the bag,
10 and send it off.

11 Q Okay. So -- so you don't know any results once
12 you --

13 A No, sir, I do not.

14 Q And just can you briefly explain to the jury what
15 SLED is?

16 A SLED is the State Law Enforcement Division.

17 Q Okay. So that would be, basically, the law
18 enforcement division over the entire state?

19 A Yes, sir, South Carolina.

20 Q Okay. And they have a lab that analyzes the gunshot
21 residue kit for you; correct?

22 A I assume so, sir. I've never been there.

23 Q But you -- you're -- you're never privy to those
24 results; right?

25 A No, sir.

1 Q Okay. And I believe you indicated you came in from
2 the city direction?

3 A Yes, sir.

4 Q Okay. And Officer Shehan was coming in from -- I'll
5 call it the California Avenue direction?

6 A Yes, sir.

7 Q Okay. And did you have any way to tell if this
8 bullet hole that was in the house was a new bullet hole
9 or --

10 A No, sir, I did not.

11 Q At -- now, at some point, was there not a bullet
12 found in the yard from a .40 caliber?

13 A I'm not -- there was a bullet found in the yard. I'm
14 not sure what caliber it was.

15 Q Okay. But that hasn't been entered into evidence
16 yet; correct, to your knowledge?

17 A I'm not sure, sir.

18 Q And I believe you identify in your report the casings
19 from a nine millimeter and .45 cartridge; correct?

20 A (There was no response.)

21 Q The two...

22 A There's nothing in my case saying exactly -- my
23 report saying exactly what caliber they were. It was just
24 that I collected item number whatever.

25 MR. THOMPSON: May I approach, Your Honor?

1 BY MR. THOMPSON:

2 Q I believe this is the report you did.

3 MR. HUNTER: Objection, Your Honor. What he's
4 showing him is a report that another officer wrote. Nix
5 did that one.

6 MR. THOMPSON: Nix did -- well, I've got the
7 handwritten one.

8 (Pause.)

9 MR. THOMPSON: May I approach, Your Honor?

10 THE COURT: Yes.

11 BY MR. THOMPSON:

12 Q Do you recognize that document?

13 A Yes, sir. It is the property sheet I done [sic] once
14 I got back to the sheriff's office.

15 Q Okay. And that's just inventory and everything you
16 collected --

17 A Yes, sir.

18 Q And, basically, you have the nine-millimeter
19 casings --

20 THE COURT: Excuse me. Mr. Thompson, don't stand
21 between the jury and the witness.

22 MR. THOMPSON: I'm sorry.

23 BY MR. THOMPSON:

24 Q You had the first -- the casings first, and then the
25 .45 casings, then more nine-millimeter casings; correct?

1 A Yes, sir.

2 Q And then some of these items, you've got nine
3 millimeter. But some are like a fired cartridge, but it
4 doesn't identify it. Is that because it was too damaged?

5 MR. HUNTER: Objection, Your Honor. He's already
6 stated he's not a firearms expert.

7 THE COURT: Well, he collected the evidence. And
8 you've asked him about damage to the shell casings, so I
9 think that's appropriate.

10 BY MR. THOMPSON:

11 Q It would be your item 23 right here.

12 A Yes, sir. Once I -- it's marked number 23 fired
13 cartridge. And that's --

14 Q From the driveway, yes, sir.

15 A It was collected from the driveway. I have no idea
16 what caliber a fired cartridge is -- a bullet. All I know
17 is the shell casing -- once I got back to the office and
18 wrote down and looked at the bottom of the shell casing as
19 to what caliber and brand it is. Fired cartridge, I
20 couldn't tell if it was a .40, a nine, or --

21 Q Because it'd be maybe in the damaged -- or damaged
22 like the ones here; right?

23 A Yes, sir. If it was intact, I wouldn't know exactly
24 what caliber that fired bullet would be.

25 Q And you did -- you did pull the one from the tree;

1 correct?

2 A Yes, sir, I did.

3 Q But you would agree with me that State's Exhibit
4 No. 50 is substantially damaged worse than the one that
5 was in the tree; correct?

6 A Yes, sir.

7 MR. THOMPSON: I have no further questions.

8 MR. HUNTER: Briefly, Your Honor.

9 REDIRECT EXAMINATION

10 BY MR. HUNTER:

11 Q Deputy Graham, did you recover a weapon at all at
12 this scene?

13 A No, sir, I did not.

14 Q Okay. And, to your knowledge, do you remember
15 recovering any shell casings at the residence of [REDACTED] in
16 the yard of [REDACTED] or the driveway of [REDACTED]?

17 A Just the one in the tree, and whatever's in the
18 driveway --

19 Q Shell casings?

20 A Shell casings, no, sir.

21 Q Did you recover any shell casings from the residence
22 of [REDACTED]?

23 A Not -- no, sir.

24 MR. HUNTER: All right. Thank you.

25 MR. THOMPSON: No further questions.

1 THE COURT: You may step down.

2 MR. HUNTER: Your Honor, may he be excused?

3 THE COURT: He may be.

4 Let me see y'all just a minute, please.

5 (WHEREUPON, a bench conference was held.)

6 MS. MABBS: Angela Geter.

7 WHEREUPON,

8 ANGELA GETER,

9 after first having been duly sworn, testified as follows:

10 THE CLERK: Have a seat.

11 DIRECT EXAMINATION

12 BY MS. MABBS:

13 Q Ms. Geter, can you, please, introduce yourself to the
14 jury?

15 A I'm Angela Geter.

16 Q And how old are you, Ms. Geter?

17 A 46.

18 Q And where do you live? /

19 A I used to stay on Howard Street. Now, I stay on
20 Methodist Drive.

21 Q Okay. But in Spartanburg County?

22 A Yes, ma'am.

23 Q And do you remember where you were the night of July
24 25, 2015?

25 A [REDACTED] sitting on the porch.

1 Q And can you tell us what happened that night?

2 A We was sitting on the porch enjoying ourself.

3 Q And when you say "we," who's "we"?

4 A Me and my sister --

5 Q Okay --

6 A -- Anita Geter.

7 Q I'm sorry. I didn't mean to interrupt you.

8 A Huh?

9 Q I'm sorry. I didn't mean to interrupt you.

10 A Oh, yeah. Me and my sister, Anita Geter.

11 Q And what were y'all doing?

12 A Enjoying ourself.

13 Q And did you, at any point, that evening go over -- I

14 believe there's a liquor house a couple --

15 A No, ma'am. I don't go over there.

16 Q So while you were at [REDACTED], did anyone

17 else come over?

18 A While we was sitting on the porch?

19 Q Yes, ma'am.

20 A Yes. Bruce Brewton. They came over.

21 Q And do you know why they came over?

22 A Yes. They come to take Robert Hull home.

23 Q Okay. And while they were over there, did anyone

24 else approach [REDACTED]?

25 A They didn't approach. They was outside, you know, in

1 the street.

2 Q Okay. And can you just kind of tell us what happened
3 at that point?

4 A It was two fellas walking down Howard Street. They
5 came from the liquor house going down Howard Street. They
6 called James Kilgore out. They asked for JJ. And they
7 walked down the street.

8 The next thing I know, we was sitting on the porch.
9 They come back up the street just like about three more of
10 them together. I don't know. We're still sitting on the
11 porch. And the next thing I know, Robert come, changed
12 his shoes.

13 They called JJ out. That's James Kilgore. And he
14 got out of Bruce Brewton's car and went to the street
15 where they were. I guess they was arguing. That's when
16 Robert came on the porch, changed his shoes, went down the
17 steps, and asked them, What y'all going to do? Fight or
18 shoot? The next thing I know, I heard a shot. And I seen
19 Robert fall.

20 Q Yes, ma'am. And, ma'am, do you -- do you know --
21 what's your relationship to Mr. Hull?

22 A I used to be going -- I used to go with him.

23 Q You were his girlfriend?

24 A Yes, ma'am.

25 Q And do you have any relationship with either Bruce

1 Brewton or James Kilgore?

2 A We friends.

3 Q And you said that you heard the gunshot. Did you see
4 the shooting?

5 A I was sitting on the porch. I just heard shots.

6 Q And what did you do after -- I know you said you
7 heard the shot and you saw Robert fall. What did you do
8 after that?

9 A I was in a state of shock. I was sitting on the
10 porch. I don't know did I just get up and run in the
11 house, or just stay on the porch. I was just in a state
12 of shock.

13 Q Okay. Do you remember if you heard any other
14 gunshots?

15 A I heard a lot of shots. They was just shooting.
16 They was just shooting, shots just going.

17 Q Do you remember about how many shots?

18 A No, ma'am, I don't.

19 Q And did you stay at that house after the shooting
20 until police arrived?

21 A Yes, ma'am. I went in the house.

22 Q And were you interviewed by the police?

23 A Yes. I think I was. I was...

24 Q You're having a hard time remembering --

25 A Yes, ma'am. We was having fun, you know. We was

1 wasted.

2 Q Yes, ma'am. Now, earlier you said that you saw two
3 men walking?

4 A Yes, ma'am.

5 Q Were they walking down towards the city, or away from
6 the city?

7 A Down towards the city.

8 Q Okay. And they came back with about five or so?

9 A It was like three more of them.

10 Q So about five total?

11 A Yes, ma'am.

12 MS. MABBS: Okay. I have no further questions at
13 this time. Please answer any questions Mr. Thompson may
14 have.

15 MR. THOMPSON: May it please the Court, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. THOMPSON:

18 Q Ms. Geter, you were at your sister's house; correct?

19 A Yes, sir.

20 Q Was she living at [REDACTED]?

21 A Yes, sir.

22 Q Okay. And you guys were on the porch there; right?

23 A Yes, sir.

24 Q Now, the liquor house is -- if you're sitting on
25 porch, it's to the right?

1 A It's to the left of me.

2 Q To the left?

3 A Uh-huh.

4 Q And was there a crowd at the liquor house that you
5 could see?

6 A I -- I don't know. I don't go up there.

7 Q You don't go there. So you didn't see anybody
8 hanging out in the yard, or anything?

9 A I don't know. I guess they was partying up there. I
10 don't know. We was sitting on our porch partying ourself.

11 Q Right. Did you hear them partying any?

12 A I heard loud noises up there, yes.

13 Q And that wasn't uncommon on the weekend for the
14 liquor house to have a crowd, was it?

15 A Nah. They have a crowd all the time.

16 Q Okay. And you indicated that Mr. Hull came -- he
17 came to the house to change shoes; correct?

18 A Yes, sir.

19 Q So had he been at the liquor house, or somewhere? Do
20 you know where he'd been?

21 A He was at the liquor house.

22 Q Okay. So he's hanging out over there?

23 A Yes, sir.

24 Q And he came over to change his shoes?

25 A Yes, sir.

1 Q And something occurs and he goes out?

2 A They was out there.

3 Q And he confronts whoever is out there?

4 A Yes, sir.

5 Q And somebody had called JJ out --

6 A Yes, sir.

7 Q -- basically, challenging him to a fight?

8 A Yes, sir.

9 Q And Robert had intervened?

10 A Trying to stop it.

11 Q Okay. And then that's when he said something like,
12 Are you going to fight or shoot?

13 A Yes, sir.

14 Q And when he put his shoes on -- did you -- did he put
15 any -- did he change anything else?

16 A No, sir.

17 Q Was he barefooted when he came over --

18 A No, sir.

19 Q So he took off one pair and put on another?

20 A He had on flip flops.

21 Q Okay. And then he put on -- what did he --

22 A Tennis shoes.

23 Q Okay. And, basically, now -- and you said you were
24 in shock; right?

25 A Yes, sir.

1 Q You just -- you heard shots. That's about the last
2 thing you remember?

3 A Yes, sir.

4 Q And then when you -- you said something about being
5 wasted. What -- explain what that means. Just drinking a
6 lot?

7 A Yes, getting drunk.

8 Q Okay. Do you -- you don't recall what time of night
9 that was?

10 A No, sir.

11 Q If it was after midnight, or before?

12 A Yeah. It was after.

13 Q It was after midnight?

14 A Uh-huh.

15 Q Was it after 1:00 a.m.?

16 A It could have been. I don't know.

17 Q And would you say that -- well, this commotion took
18 place right in front of your sister's house?

19 A Yes, sir, it did.

20 Q And the partying, was it fairly loud at the liquor
21 house, too?

22 A Yeah. They was having fun over there, I guess.

23 MR. THOMPSON: Okay. I have no further questions.

24 MS. MABBS: Nothing further, Your Honor.

25 THE COURT: You may step down.

1 We're going to break for lunch. We'll resume this
2 afternoon at 2:15. Keep in mind no discussions about the
3 case, no research, no investigation, no media exposure.

4 Have a good lunch.

5 Please report to your jury room at 2:15, 2:15 this
6 afternoon.

7 (WHEREUPON, the jury was excused from open court at
8 approximately 12:49 p.m.)

9 THE COURT: Wait just a minute. Wait just a minute.
10 Not yet.

11 (Pause.)

12 THE BAILIFF: They're dismissed, Your Honor.

13 THE COURT: Court is in recess until 2:15.

14 (WHEREUPON, a lunch break was taken.)

15 THE COURT: Are we ready for the jury?

16 MR. HUNTER: Yes, from the State.

17 MR. THOMPSON: Yes, Your Honor.

18 THE COURT: All right. Who's the next witness?

19 MR. HUNTER: Chad Smith from SLED.

20 THE COURT: Bring the jury in, please.

21 (WHEREUPON, the jury came into open court at
22 approximately 2:24 p.m.)

23 THE COURT: Good afternoon.

24 As you know, when we recessed for lunch, the State
25 was in the midst of their presentation of evidence. So

1 we'll continue with that presentation this afternoon.

2 Mr. Hunter.

3 MR. HUNTER: The State calls Chad Smith from SLED.

4 WHEREUPON,

5 CHAD SMITH,

6 after first having been duly sworn, testified as follows:

7 THE CLERK: Have a seat.

8 DIRECT EXAMINATION

9 BY MR. HUNTER:

10 Q All right. Remember we went over the microphone
11 before you came out -- the jury came out. Do you remember
12 that?

13 A Yes, sir.

14 Q All right. Please state your full name for the
15 record.

16 A My name is Chad Smith, S-M-I-T-H.

17 Q Okay. And where are you currently employed?

18 A I'm employed by the South Carolina Law Enforcement
19 Division, which is commonly known as SLED. Specifically,
20 I work at SLED's forensic services laboratory in Columbia.

21 Q And how long have you been working in laboratory
22 services?

23 A It will be nine years in November.

24 Q And what specialty are you working in?

25 A I work in the firearms department at the forensic

1 services laboratory. I'm an examiner or a forensic
2 scientist in that capability.

3 Q Can you briefly go over your educational experience?

4 A I received a Bachelor of Science Degree in Biological
5 Sciences from Clemson -- Clemson University. When I came
6 on board with SLED, I started my training program as a
7 firearms examiner. This training program lasts between
8 three to five years. It involves extensive reading and
9 studying. There are multiple examinations and tests given
10 during this period. I, also, help the other examiners
11 prepare their own case work.

12 And at the end of my training period, I receive a
13 comprehensive multipart examination, which I successfully
14 passed. And then I began to receive my case work.

15 Q Okay. And what are your duties as a forensic
16 scientist in the firearms field?

17 A Primarily, I'm responsible for the examination of
18 firearms, ammunition components such as bullets, and
19 cartridge cases, and other similar items. The majority of
20 what I do is try to determine if a cartridge case or a
21 bullet was fired by a specific firearm.

22 Q What makes such identification possible?

23 A During the manufacturing process of a firearm, the
24 tooling by the machinery itself leaves various marks or
25 tool marks on the parts of the firearm. These are done

1 not to the -- it's totally random and unique. And there's
2 microscopic marks or defects is what we're looking for.

3 And so when a firearm fires a cartridge, the
4 cartridge case and bullet are -- get those marks caused by
5 the firearm itself. And so we can look at those markings
6 through a microscope and try to determine if it was fired
7 by a specific firearm.

8 Q All right. And is that the standard practice in your
9 field?

10 A Yes, sir.

11 Q Are you a member of any professional organization in
12 this field?

13 A I am. I'm a member of AFTE, which stands for
14 Association of Firearm and Tool Mark Examiners. This is
15 an international organization, which is designed to
16 further the science of firearms examination.

17 Q Now, is that organization something you just pay
18 money to be a part of, or do you, actually, have to go
19 through an application process?

20 A There's a lengthy application process that the --
21 it's reviewed by the AFTE board of membership before you
22 can be admitted into the membership.

23 Q Have you ever testified as an expert in South
24 Carolina courts?

25 A Yes, sir.

1 Q Approximately how many times?

2 A 35 times.

3 Q All in the field of fire mark -- firearm and tool
4 mark examination as a forensic scientist?

5 A Yes, sir.

6 MR. HUNTER: Your Honor, at this time, the State
7 would offer Chad Smith as an expert in the field of
8 firearm and tool mark examination as a forensic scientist.

9 MR. THOMPSON: No objection.

10 THE COURT: He is so qualified.

11 BY MR. HUNTER:

12 Q Did you happen to work on a case out of Spartanburg?

13 A Yes, sir.

14 Q Okay. How did you come across that case?

15 A Evidence was submitted to the laboratory from the
16 Spartanburg County Sheriff's Office. I was assigned the
17 case. And then I received the evidence. And then I began
18 my examinations on the evidence.

19 Q Okay. Can you look at the evidence in front of you
20 and make sure that's all the evidence that you examined?

21 A Yes, sir.

22 Ladies and gentlemen, what I'm looking for -- this is
23 the packaging as I returned it to the agency. It has my
24 seal date of 8/4/17, and my initials. And on the
25 packaging itself, it's got the SLED lab number, as well as

1 the item number of the evidence and my initials. And they
2 contain the evidence itself, which I, also, marked with
3 the lab number, the item number, and my initials.

4 Q And so is that true for all the items of evidence in
5 front of you?

6 A Yes, sir. Some of the smaller items, there may not
7 be enough space to write all that information. So we just
8 write what we can via just the item number or my initials,
9 depending on the size of the item itself.

10 Yes. These are the items I received for examination.

11 Q Okay. Now, you have different numbers than what
12 are -- our evidence numbers are. State's Exhibit Nos. 41
13 through 46, these six items here, what are those items?

14 A These are the six fired .45 auto caliber cartridge
15 casings I received.

16 Q And they're all .45 caliber cartridges?

17 A Yes, sir.

18 Q Are you able to tell anything specific about those
19 cartridges?

20 A Yes. Through my examination -- and what we do is we
21 have a piece of equipment called a comparison microscope.
22 And it's, basically, two microscopes that's connected by
23 optical systems. So we can look at two samples
24 simultaneously, and manipulate the samples, and look for
25 the -- the markings that we need to try to make an

1 identification.

2 So what I did was I compared each one of these
3 against each other to try to make a determination. And I
4 was able to determine that all six of these cartridge
5 cases were fired by the same firearm.

6 Q Okay. So all the .45 caliber cartridge cases that
7 you received were fired from the same firearm, that's your
8 expert opinion?

9 A Yes, sir.

10 Q Okay. Now, the items in front of you, can you
11 describe those items?

12 A State's Exhibit No. 48, which is my item seven, is a
13 fired bullet jacket, as well as a bullet core. And when I
14 say jacket and core, what I mean is some bullets are known
15 as jacketed bullets.

16 And if you think of like a piece of candy like an M&M
17 where you have the chocolate center, the core would be the
18 center. Typically, it's made out of softer material such
19 as lead. The outer can be part of an M&M. It would be
20 like the jacket. And that's this part here. That would
21 be made of some harder material such as copper. And so
22 you have two different pieces to this bullet.

23 State's Exhibit No. 47, which is my item eight, is
24 another fired bullet. It's whole. It has not separated
25 into the core or jacket.

1 State's Exhibit No. 49 is another complete fired bullet.

2 State's Exhibit No. 50, which is my item 10, is just
3 the jacket portion of a bullet. So that's just the outer
4 part of a jacketed bullet.

5 And State's Exhibit No. 56, which is my item 15, it
6 was received as a one-hole bullet and a piece of the
7 jacket fragment. But during my examinations, the -- the
8 bullet separated into the jacket or softer lead material
9 and the core, which is the copper shell.

10 Q Did you test those jackets, fragments, and cores
11 against each other?

12 A Yes, I did.

13 Q In your expert opinion, what were you able to tell?

14 A I was able to determine that items -- State's Exhibit
15 No. 48, State's Exhibit No. 47, and the bullet portion of
16 State's Exhibit No. 56 were all consistent with being .45
17 auto caliber in nature, as well as they were all fired by
18 the same firearm.

19 Now, State's Exhibit No. 48, the core portion, again,
20 which is the separated portion from the jacket, I was able
21 to determine it was most consistent -- or consistent with
22 being a .45 caliber, although I can't say for sure that
23 these two were once the same bullet.

24 State's Exhibit No. 49 is a different caliber. It
25 was determined to be either a .40 Smith and Wesson caliber

1 or 10-millimeter auto caliber.

2 State's Exhibit No. 50, which, again, was just the
3 jacket portion of a bullet, was consistent with being a
4 .38 caliber. Now, that includes calibers such as a .38
5 Special, a .357 Magnum, or a nine-millimeter Luger, or a
6 .380 auto. I couldn't determine which of those calibers
7 this, actually, was. But it was just a nominal .38 group
8 caliber.

9 Q And just so -- for the juries information, there's no
10 way for you to tell if a bullet is fired from a cartridge
11 casing -- a specific cartridge case by testing it?

12 A No, sir.

13 Q Okay. But what you can tell is that your item seven,
14 eight, and 15 were all fired by the same weapon?

15 A Right. The -- now, when you say item 15, again, it
16 was made up of just a bullet as I received it, as well as
17 the small jacket fragment. Now, the small jacket
18 fragment, I couldn't determine a caliber from it, or if it
19 was fired by any of the same guns that fired any of these
20 other bullets.

21 But my item seven, the jacket portion, and item
22 eight, and the bullet portion of item 15 were all fired by
23 the same firearm.

24 Q And that firearm was what caliber?

25 A It was most consistent with being a .45 auto.

1 Q Okay. Now, just -- just to be sure so the jury
2 knows, when you test these items, you're not -- you never
3 come to the scene --

4 A No, sir.

5 Q -- of wherever the shooting happens?

6 A No, sir.

7 Q You didn't know what happened on the scene?

8 A No, sir.

9 Q Your sole job is to test the items that are given to
10 you?

11 A Correct.

12 Q Okay. And it is your expert testimony today that all
13 the shell casings tested by you, the .45 caliber, were
14 fired by the same weapon?

15 A Correct.

16 Q And that three of the recovered jackets or bullets
17 were all consistent with a .45 caliber weapon?

18 A Right.

19 MR. HUNTER: Please answer any questions that
20 Mr. Thompson may have for you.

21 MR. THOMPSON: May it please the Court, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. THOMPSON:

24 Q Mr. Smith, now, at some point, if you were to receive
25 the firearm, you could determine what gun [sic] came from

1 what firearm; right?

2 A We would definitely try to -- to determine that.
3 Sometimes, depending on the condition of the bullet, the
4 cartridge case, it may be difficult to make an
5 identification, or we may not be able to. But we,
6 certainly, attempt to determine if it was fired by a
7 specific firearm.

8 Q Okay. And as far as the condition of the bullet,
9 item 15, is that consistent with bullets you received?
10 You said it broke in half; is that right?

11 A Yes, sir. Yeah. In this little packaging here, I've
12 got two portions. I've got the jacket and the core. It
13 was received together. But it's not uncommon during the
14 examination that a core and a jacket, they separate just
15 because there's nothing really holding it together, unless
16 it's a certain kind of bonded bullet, which is kind of
17 glued together, which this was not.

18 Q And based upon the condition of the bullet, can you
19 determine if it was a -- let's say if it were removed
20 from -- from a person's body, could you determine if it
21 was close range, or short range, or anything like that?

22 A No, sir.

23 Q Okay. And as far as the condition of item 15, could
24 that bullet have possibly hit something prior to hitting a
25 person?

1 A It's possible. Again, I don't know the specifics of
2 the case or -- obviously, it was removed from somebody.
3 But I don't know if it had hit something before then or
4 not.

5 Q And would I be correct in determining that there
6 were, at least, three firearms out there that contributed
7 to these casings and bullet fragments?

8 A You would have one firearm that fired all the .45
9 auto caliber cartridges -- cartridge cases. Excuse me.
10 Bullet-wise and projectile-wise, you would have three
11 different ones, because of three different calibers.

12 Q So, basically, the -- the -- and I'm -- I'm not a gun
13 person, but a .45 can't shoot a nine-millimeter bullet?

14 A No, sir.

15 Q Okay. And the -- you said that you determined there
16 was a .45 caliber. And then what were the other two you
17 determined there was?

18 A The item -- State's Exhibit No. 49, which is my item
19 nine, was consistent -- most consistent with being either
20 a .40 Smith and Wesson caliber or a 10-millimeter auto.
21 And the reason I can't determine if it was one or the
22 other is because they both share the same bullet diameter
23 and the characteristics.

24 And the other one would be State's Exhibit No. 50, my
25 item 10, which is the jacket of a bullet. And it's most

1 consistent with being a nominal .38 caliber. So it could
2 be either a nine-millimeter Luger, a .380 auto, a .38
3 Special, or a .357 Magnum, amongst some others. But I
4 couldn't determine, specifically, which because they were
5 just too damaged and there wasn't enough of it there.

6 MR. THOMPSON: I have no further questions.

7 Thank you.

8 MR. HUNTER: Just briefly.

9 REDIRECT EXAMINATION

10 BY MR. HUNTER:

11 Q We talked earlier. Can you tell the age of any of
12 those bullets?

13 A No. Sometimes, we're able to determine if a bullet's
14 been in a body for -- for an extended period of time. It
15 has some corrosion and some other characteristics that --
16 that are consistent with being, you know, in a person for
17 a long time. These specific ones, I can't determine any
18 kind of age about them.

19 Q So you can't tell if that .40 caliber had been
20 sitting wherever for years?

21 A Right. Yeah. I --

22 MR. THOMPSON: Objection. He's asking him to
23 speculate. He's already testified he can't tell how old
24 the bullets are.

25 THE COURT: Overruled.

1 Go ahead.

2 BY MR. HUNTER:

3 Q So you -- you can't tell how long the bullet's been
4 sitting outside or not?

5 A No, sir.

6 THE COURT: Anything further?

7 MR. THOMPSON: No recross.

8 THE COURT: Step down.

9 MR. HUNTER: Your Honor, may Mr. Smith be excused to
10 head back to Columbia?

11 THE COURT: He may be.

12 MS. MABBS: Your Honor, the State would call Anitra
13 Geter.

14 WHEREUPON,

15 ANITRA GETER,

16 after first having been duly sworn, testified as follows:

17 THE CLERK: Have a seat.

18 DIRECT EXAMINATION

19 BY MS. MABBS:

20 Q Ms. Geter, can you, please, introduce yourself to the
21 jury?

22 A Anitra Geter.

23 Q And, Ms. Geter, how old are you?

24 A 41.

25 Q Where do you live?

1 A I used to stay on [REDACTED].

2 Q Is that [REDACTED]?

3 A [REDACTED]

4 Q And, Ms. Geter, do you remember where you were the
5 night of July 25th, 2015?

6 A Sitting on my front porch drinking.

7 Q Were you there with --

8 A Angela.

9 Q And while y'all were sitting up there, did anyone
10 come over to that residence?

11 A Not while we was sitting there.

12 Q And then can you tell us about the events that
13 happened that night?

14 A We was sitting there drinking, two fellas walked down
15 the street talking. I heard them say "JJ," which is
16 James. They kept going so I didn't think nothing else
17 about it. I continued to drink.

18 Bruce came because he was supposed to be taking
19 Robert home. I told them they had left Robert at the
20 liquor house.

21 So I looked back up and it was about four or five
22 that came. They was standing at my driveway. They called
23 JJ out, which is James, again. He got out of the car and
24 went. They got to arguing. I told them to get off from
25 in front of my driveway, I was going to call the police.

1 I went in the house and dialed 911. And then I heard
2 gunshots.

3 Q And just to be clear, Ms. Geter, when you say
4 "Robert," are you referring to Robert Hull?

5 A Yes.

6 Q And James is James Kilgore?

7 A Yes.

8 Q And Bruce is --

9 A Bruce Brewton.

10 Q And when you said -- I think you said Bruce's car
11 that they got out of, was that it, or James' car?

12 A It was Bruce.

13 Q Okay. And where was that car parked?

14 A It was in my driveway.

15 Q And there -- if I can find -- Ms. Geter, this is
16 State's Exhibit No. 4. Is that Bruce's truck or is
17 that --

18 A It's not. It's a different truck.

19 Q Okay. Was that truck already there that evening?

20 A I can't recall.

21 Q Okay. Do you know if that truck came after the
22 shooting?

23 A I don't know. I was in the house.

24 Q And, Ms. Geter, you said that you called 911?

25 A Yes.

1 MS. MABBS: And, Your Honor, at this time, State's
2 Exhibit No. 52 would be our 911 calls that the Defense has
3 already stipulated to their authenticity. We'd ask that
4 those be admitted at this time.

5 MR. THOMPSON: No objection.

6 THE COURT: It's admitted.

7 (WHEREUPON, State's Exhibit No. 52 was admitted into
8 evidence.)

9 BY MS. MABBS:

10 Q And, Ms. Geter, when you were calling 911, were you
11 inside the house, or were you still on the porch?

12 A Inside.

13 Q Okay. So you were inside when the shooting occurred?

14 A Yes.

15 Q Were you able to see anything?

16 A No.

17 MS. MABBS: Your Honor, if I may publish State's
18 Exhibit No. 52.

19 (WHEREUPON, State's Exhibit No. 52 was played in
20 open court.)

21 BY MS. MABBS:

22 Q So, Ms. Geter, was that the phone call you placed to
23 911?

24 A Yes.

25 Q And do you recall about what time you made that phone

1 call?

2 A No, ma'am.

3 Q Do you remember how long after you made that phone
4 call approximately before police arrived?

5 A It wasn't long.

6 MS. MABBS: Please answer any questions Mr. Thompson
7 may have for you.

8 MR. THOMPSON: May it please the Court, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. THOMPSON:

11 Q Ms. Geter, you were on your porch. How long -- how
12 long were you guys out there?

13 A I can't give you how long I was out there.

14 Q Okay. And -- and when you were sitting on the porch,
15 is the liquor house to your left?

16 A Yes.

17 Q Okay. Could you hear them over there partying?

18 A They was -- I could hear them, but I don't know what
19 they was over there doing.

20 Q Okay. And you don't know how big of a crowd was over
21 there, or anything like that?

22 A No.

23 Q Okay. And you indicated that, at some point,
24 Mr. Brewton came by to pick up Mr. Hull?

25 A Yes.

1 Q So was Mr. Hull there with you?

2 A No. He -- he was left at the liquor house.

3 Q Okay. So he walked over from the liquor house;
4 right?

5 A He was at the liquor house. He was already at the
6 liquor house.

7 Q Okay. But -- so did Robert -- I mean, did
8 Mr. Brewton pull up at your house, or the liquor house?

9 A He was at my house. They -- they was leaving the
10 liquor house.

11 Q So --

12 A Mr. Brewton was leaving the liquor house to come and
13 get Robert to take him home.

14 Q Okay. But Robert was still at the liquor house?

15 A Yes.

16 Q So he was waiting on Robert to walk over?

17 A I -- I don't have any idea.

18 Q Okay. Do you recall if Robert came over?

19 A I don't know. I must have -- if he did, I was in the
20 house. I don't recall that.

21 MR. THOMPSON: Okay. I have no further questions.

22 MS. MABBS: Nothing further for this witness, Your
23 Honor.

24 THE COURT: You may step down.

25 MR. HUNTER: Your Honor, there's a matter we need to

1 MR. MARQELL OWENS: Oh.

2 THE COURT: Sir?

3 MR. MARQELL OWENS: I want to be here.

4 THE COURT: You want to be here?

5 MR. MARQELL OWENS: Yes, sir.

6 THE COURT: All right. Then you'll have to wait
7 until we take a break in order to go to the bathroom.

8 MR. MARQELL OWENS: All right. Appreciate it.

9 THE COURT: All right. Bring the jury in.

10 (WHEREUPON, the jury came into open court at
11 approximately 2:57 p.m.)

12 THE COURT: All right. The jury is present.
13 You may proceed.

14 MR. HUNTER: Your Honor, the State calls James
15 Kilgore.

16 WHEREUPON,

17 JAMES HULL KILGORE,
18 after first having been duly sworn, testified as follows:

19 THE CLERK: Have a seat.

20 DIRECT EXAMINATION

21 BY MR. HUNTER:

22 Q All right. Remember you've got to speak into the
23 microphone, Mr. Kilgore. All right. Because you speak
24 very quietly.

25 A Yes, sir.

1 Q Okay. Please state your full name for the record.

2 A James Hull Kilgore.

3 Q All right. How old are you, Mr. Kilgore?

4 A 28.

5 Q Where do you live?

6 A [REDACTED].

7 Q Is that -- in what town?

8 A I don't know. I think it be the west side.

9 Q But it's in Spartanburg?

10 A Yes.

11 Q Okay. Mr. Kilgore, can you tell us where you were
12 the night of July 24th, 2015?

13 A July 24th?

14 Q July 24th, that night.

15 A That night, we had stopped at -- next door from my
16 cousin house. We was over there drinking a little bit,
17 having fun.

18 Q And what's that location called? What do you call
19 that location?

20 A Everybody call it the liquor house.

21 Q The liquor house. And that's next to [REDACTED]

22 [REDACTED]

23 A Correct.

24 Q All right. Do you recognize this view from State's
25 Exhibit No. 1?

1 A Yes, sir.

2 Q Okay. And do you see that place that has the red
3 dot?

4 A Yes, sir.

5 Q What -- what is that? Is that [REDACTED]?

6 A It looks like the house.

7 Q Okay.

8 THE COURT: Use the microphone, please, when you
9 respond.

10 THE WITNESS: Okay.

11 BY MR. HUNTER:

12 Q Can you grab the laser pointer there beside you? Can
13 you, please, point to the liquor house?

14 A That would be the liquor house right there.

15 Q Okay. And so there's an empty lot between that house
16 and [REDACTED]?

17 A Yes.

18 Q Okay. Why'd you go to the liquor house?

19 A We just drink and have fun a little bit over there.

20 Q Specifically, that night, was there any reason why
21 you went to the liquor house?

22 A To drink a little bit. The liquor store closed.

23 Q So this is -- the liquor store is closed. You can't
24 buy liquor, so this is where you go to buy drinks?

25 A Yes.

1 Q Okay. Who'd you go with?

2 A I went by myself. I showed up, at the time, by
3 myself. But when I got there, my family was there.

4 Q And who's your family?

5 A Bruce Brewton, Robert -- Robert Hull.

6 Q Okay. So the deceased victim and Mr. Brewton?

7 A Yes.

8 Q Okay. And what'd y'all do while you were at the
9 liquor house?

10 A Drank a little bit. That was about it. Got a -- a
11 fight broke out.

12 Q Who did the fight break out between?

13 A JR -- JR and his stepfather got into it.

14 Q All right. So this person you know is Junior?

15 A Yes.

16 Q And his stepfather. Was any females involved in this
17 fight?

18 A Not at the moment.

19 Q Okay. Well, who's Charlie Ann Johnson?

20 A That's his mother. That's JR's mother, Junior's
21 mother.

22 Q Did she get involved in the fight at the liquor
23 house?

24 A She got in an argument with my cousin, Robert.

25 Because he was trying to stop her son from disrespecting

1 her.

2 Q So did Robert talk to Junior that night?

3 A Yes.

4 Q Did he say something to her?

5 A He didn't say nothing for them to get into an
6 argument, or nothing. He was just telling him to stop
7 disrespecting his mother.

8 Q Okay. Did Junior take that very well?

9 A Yeah. He was --

10 Q Okay. Who was with Junior that night?

11 A I didn't see no one but his mother at the time. But
12 he had Little Man and Pee Wee with him one time. I saw
13 him outside, he had Little Man and Pee Wee with him.

14 Q So at the liquor house?

15 A Yes.

16 Q All right. Who is Little Man?

17 A Felshunti Clark.

18 Q So Felshunti Clark is Little Man?

19 A Yes.

20 Q Do you know Pee Wee's real name?

21 A No.

22 Q Okay. So do you recognize the person sitting at the
23 Defense table?

24 A Yes.

25 Q Okay. What's his name?

1 A Holmes Simpson-Davis.

2 Q All right. On the night at the liquor house, did you
3 ever see Holmes Simpson-Davis at the liquor house?

4 A He was never at the liquor house.

5 Q Okay. But Felshunti Clark was?

6 A Yes.

7 Q Okay. When this fight breaks out between Junior and
8 his stepfather, Robert intervenes?

9 A No.

10 Q When did he intervene?

11 A He never really intervened in that situation at all.
12 He just -- when we got outside -- when Bruce said he was
13 ready, we got outside. And Junior and his mother was into
14 it. He was trying to stop Junior from disrespecting his
15 mother. That's the only time he got involved.

16 Q Okay. So, at that point, after -- after this, did
17 Junior leave?

18 A Yes.

19 Q Who does he leave with?

20 A I don't know who he left with.

21 Q Okay. Does Felshunti leave?

22 A Yes. Felshunti -- Felshunti was gone before then.

23 Q Okay.

24 A He was already gone at that time.

25 Q Did you say which -- see which way Felshunti went?

1 A Down towards the city.

2 Q So, again, from the liquor house in front of your
3 cousin's house towards the city?

4 A Yes.

5 Q Okay. After this fight, what do you do, the fight at
6 the liquor house?

7 A I had grabbed Junior and took him outside. When I
8 grabbed Junior and took him outside, Little Man and Pee
9 Wee, which is Felshunti Clark -- Little Man and Pee Wee
10 was out there. And they walked up on me to ask me what I
11 had going on. I pushed both of them up off of me. And
12 another guy got in. He was like, Stop, y'all chill,
13 whatnot. And they left after that. I went back in the
14 liquor house.

15 Q Which way did they leave?

16 A They left going down Howard towards the city.

17 Q Towards the city. All right. And you went back into
18 the liquor house?

19 A Yes. And my cousin, Bruce, said he was ready.

20 Q Okay.

21 A And he told us to come on.

22 Q So when you went back in the liquor house, what'd you
23 do next?

24 A When I went back in the liquor house, Bruce told us
25 he was ready. We went back out going back towards the

1 car. He was parked across the street from the liquor
2 house. He was parked --

3 Q So he wasn't parked in the -- the lot next to the
4 liquor house. He was parked across the street?

5 A Yes.

6 Q On one of the streets across from it --

7 A Yes.

8 Q -- that run perpendicular to Howard Street?

9 A Yes.

10 Q Okay. Did y'all walk to the car?

11 A Yes.

12 Q Who was with you?

13 A Me, Bruce Brewton, and Red.

14 Q Is that Traviious? Is that his real name?

15 A Yes.

16 Q Okay. Was there a fourth person in the car with you?

17 A Boobee [phonetic].

18 Q Do you know his real name?

19 A No, sir.

20 Q Okay. There's a lot of nicknames here. Does
21 everybody go by their nickname?

22 A Yes, sir.

23 Q Okay. When you get to the car, do you know where
24 you're going?

25 A Yes, sir.

1 Q Where are y'all going?

2 A He was taking us home. He was going to drop us off.

3 But we had went next door because Big Boy said -- which is

4 Robert Hull said he had to go grab his stuff. So we

5 pulled next door. And Bruce got out.

6 Q So when y'all -- y'all, initially, go to [REDACTED]

7 [REDACTED]

8 A Yes.

9 Q There's only three of you in the car?

10 A There's four.

11 Q There's four?

12 A It was four.

13 Q Okay. But Robert Hull is not in the vehicle?

14 A No, sir.

15 Q Did he walk over from the liquor house?

16 A Yes, sir.

17 Q Okay. When you pull into [REDACTED], what do
18 you see?

19 A I see -- after Bruce get out of the car, he's going
20 looking for Big Boy. And I see five people behind the
21 car. I see five guys behind the car.

22 So I got out of the car and I asked them, What's the
23 problem? What's going on? And Felshunti said he wanted
24 his one.

25 Q He wanted what?

1 A He wanted his one, which is a one-on-one fight. And
2 he said he wanted his one. I told him there was no
3 problem. I got to walking towards them --

4 Q Who was with him?

5 A Holmes Simpson-Davis and three other guys.

6 Q Do you recognize the other gentlemen?

7 A No, sir.

8 Q Do you recognize them, or do you just not know their
9 names?

10 A I don't recognize them.

11 Q Okay. So you start walking towards Felshunti. What
12 do you see?

13 A Holmes -- I see Holmes with a gun. And he said, Nah,
14 that ain't happening, get back on.

15 And I said, Really, Holmes?

16 He said, Yeah. That's my partner, or whatnot, you
17 know.

18 So I backed off. And by the time I'm backing off
19 trying to get to the car, my cousin, Bruce, come out by
20 that time and --

21 Q Now, are you friends with Holmes?

22 A Not really. I had never been friends with him like
23 that.

24 Q And how long have --

25 A I knew him, though --

1 Q -- you known him?

2 A I knew him for a while, you know, just about my whole
3 life.

4 Q What about Felshunti?

5 A I've never really been friends with him. We was
6 cool. We always was associates.

7 Q But how long have you known him?

8 A I've known him since he was a child, basically.

9 Q So both Felshunti and Mr. Holmes Simpson-Davis,
10 you've known for a while?

11 A Yes.

12 Q Okay.. And when you approached Felshunti, did you see
13 Holmes with a gun?

14 A Yes.

15 Q And what does he say to you?

16 A He say -- I say, Really, Holmes?

17 And he say, Yeah, that's my partner. His homeboy, or
18 whatever.

19 And I start backing off. By the time I'm backing
20 off, Bruce Brewton was coming back out. I don't think he
21 never went in. But he was turning back around coming' back
22 towards us. And he was talking.

23 And he was telling him, Look, man, that's my cousin.
24 Whatever y'all got going on, y'all handle it another time,
25 saying stuff like that to him.

1 By that time, we see our cousin, Robert.

2 Q So Bruce is trying to break up what looks like a
3 fight about to happen up; is that correct?

4 A Yes.

5 Q Okay. Now, you said you saw Holmes with a gun. Did
6 you see anybody else with a gun?

7 A There was another guy with a gun, but I couldn't make
8 out who he was.

9 Q Now, was he with your group or with Felshunti and
10 Holmes?

11 A Felshunti and Holmes.

12 Q Okay. Did you ever handle a weapon that night?

13 A No, sir.

14 Q Did you ever see Bruce Brewton handle a weapon that
15 night?

16 A No, sir.

17 Q Did you ever see Robert Hull handle a weapon that
18 night?

19 A No, sir.

20 Q So once Bruce is able to quash this fight a little
21 bit, what happens?

22 A And then our cousin, Robert Hull, he came. And I was
23 grabbing him. I was telling him, They got guns. But he
24 don't -- he don't care about none of that, you know, when
25 it comes to his family anyway. And, by that time, he got

1 to approaching them and --

2 Q And what happened?

3 A And he told them, F all of y'all guns. And, by that
4 time, he was shot.

5 Q Who shot him?

6 A Holmes Simpson-Davis. He stood to the side and shot
7 him as soon as he said it. He was in Felshunti's face.

8 Q So Robert was in Felshunti's face?

9 A Yes.

10 Q And that's when Holmes pulled the gun -- pulled the
11 gun out and shot him, or he already had the gun out?

12 A He had it out already.

13 Q But he pulled it up?

14 A Yeah, and shot him.

15 Q Where did he shoot him?

16 A He shot him in the head.

17 Q He shot him in the face?

18 A Yes. It was on this side.

19 Q Okay. It was on the left side of Robert Hull --
20 his -- Robert Hull's face?

21 A Yeah, the left side.

22 Q Do you recognize that scene?

23 A Yes, sir.

24 Q When you saw Robert get shot, did he brace himself
25 when he fell?

1 A No, sir.

2 Q So he just fell straight to the ground?

3 A Yes, sir.

4 Q So that's approximately where he was standing when he
5 got shot?

6 A Yes, sir.

7 Q Can you point me -- will you grab that laser pointer
8 again? Can you come off of the stand, but stand under
9 this microphone? Don't turn your back to the reporter.
10 So come stand and look at the -- like this. Okay.

11 A Okay.

12 THE COURT: Take -- take one step to your left.

13 There you go.

14 BY MR. HUNTER:

15 Q So that's Robert Hull in the driveway there; is that
16 correct?

17 A Yes, sir.

18 Q Can you tell me when you're talking to Felshunti
19 where you're standing?

20 A When I was talking to him, I was probably standing a
21 little bit farther back than this. I was standing a
22 little bit farther back than that. Because they was about
23 right out here.

24 Q So they're -- they're in the roadway --

25 THE COURT: Excuse me just a minute.

1 Mr. Kilgore, you've got to come this way a little bit
2 more, and kind of project your voice towards the
3 microphone.

4 THE WITNESS: Okay.

5 BY MR. HUNTER:

6 Q So you're standing right there at the end of the
7 grass?

8 A Yes, sir. But a little bit farther back.

9 Q Okay. And where is the group of five standing?

10 A Right in here.

11 Q Right there at the edge of the roadway and driveway?

12 A Yes, sir.

13 Q Where is Felshunti standing?

14 A He was standing about right in here.

15 Q Okay. And where was Holmes standing?

16 A Right beside him.

17 Q So Felshunti was looking -- you're looking at
18 Felshunti, and Holmes was to the left of Felshunti?

19 A Yes, sir.

20 Q Okay. And Mr. Hull came up and got in Felshunti's
21 face?

22 A Yes, sir.

23 Q Okay. And where's Bruce? Is he near you?

24 A Bruce was near this way right here. But he was near
25 me, but he was back here this way.

1 Q Okay. But he was on that side as well?

2 A Yes, sir.

3 Q Okay. You can sit back down.

4 A (Witness complied.)

5 Q After you saw Mr. Hull get shot by Holmes, what did
6 you do?

7 A I took off running.

8 Q Okay. Did he start pointing the gun at y'all, and
9 then you started taking off running?

10 A Yes, sir.

11 Q Okay. Did you hear multiple shots after that?

12 A Yes, sir.

13 Q Okay. Did you call 911?

14 A Yes, sir.

15 Q I'm going to ask you a serious question, because
16 we're about to hear your 911 call. When you first called
17 911, did you tell the 911 operator if you knew who shot
18 your --

19 A No, sir.

20 Q In fact, did you tell them you didn't know who shot
21 you?

22 A Yes, sir.

23 Q And, in fact, when you got to the hospital and you
24 first talked to police, I want you to be honest, did you
25 tell police that you knew who shot you?

1 A I told them no at first.

2 Q Okay. Why did you tell them -- why did you tell 911
3 and why did you, originally, tell the police that you
4 didn't know who shot you?

5 A Because, at the time, I didn't really think my cousin
6 was dead. And then my family wanted justice for who
7 killed him.

8 Q So you were willing to take a bullet and not say
9 anything?

10 A Yes, sir.

11 Q It wasn't until after you realized Mr. Hull was dead
12 that you decided to come forward and be truthful?

13 A Yes, sir.

14 (WHEREUPON, State's Exhibit No. 52 was played in
15 open court.)

16 BY MR. HUNTER:

17 Q Is that hard for you to listen to?

18 A Kind of.

19 Q Where did you get shot?

20 A In the foot.

21 Q Do you still have a scar?

22 A Yes, sir.

23 Q Do you mind taking your shoe off?

24 A (Witness complied.)

25 Q Before this incident happened, you had never seen

1 Holmes at the liquor house?

2 A No, sir.

3 Q The first time you saw him was when he showed up at
4 the street corner where --

5 A Yes, sir.

6 Q -- the picture was taken?

7 A Yes, sir.

8 Q Okay. Now, I want to make sure. Because you told
9 911 and the police, originally, you didn't know who shot
10 you. But do you know who shot you and Mr. Hull?

11 A I can't say who shot me. But I know I saw him shoot
12 my cousin. I saw him shoot Robert. Who shot me, I can't
13 say who shot me. Because there was two guns going off.
14 But I watched him shoot Robert.

15 Q And then he started pointing at you, and that's when
16 you ran?

17 A Correct. Yes, sir.

18 Q But who shot Robert Hull?

19 A Holmes Simpson-Davis.

20 MR. HUNTER: Please answer any questions Mr. Thompson
21 may have for you.

22 MR. THOMPSON: May it please the Court, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. THOMPSON:

25 Q Mr. Kilgore, you were at the liquor house; correct?

1 A Correct.

2 Q On the 24th. And that's not -- that's not [REDACTED] is
3 it?

4 A No, sir.

5 Q All right. So [REDACTED] is next door?

6 A Yes.

7 Q Okay. So you had -- how long had you been there?

8 A Been where? At the liquor house?

9 Q Yes, sir.

10 A Probable since -- probably about 10:00.

11 Q And do you recall what time it was when all this
12 trouble broke out?

13 A It was somewhere around 12:40, something like that.

14 Q Around 12:40. Okay.

15 A A little bit after 12:00.

16 Q And you, originally, indicated that you and I believe
17 it was -- you're JJ; right?

18 A Yes.

19 Q That you, Mr. Brewton, and Red were the ones that
20 were waiting for Mr. Hull to come back to the car;
21 correct?

22 A Correct. Yes.

23 Q Okay. And why would you leave Boobee off of that
24 list originally?

25 A I forgot to mention Boobee. Boobee disappeared so

1 fast. Boobee wasn't sitting in the car with us at the
2 time. Boobee had already jumped out of the car when we
3 pulled up in the yard.

4 Q He jumped out prior to pulling up in the yard?

5 A Boobee was the first one out of the car -- Bruce was
6 the first one that got out. Boobee got out right behind
7 Bruce. After the guy was at the back of the car, Boobee
8 spotted him before me. Boobee jumped on out of the car.

9 Q But he --

10 A So it was me and Red -- me and Red sitting in the car
11 at this time, by the time I spotted people behind us.

12 Q Okay. And you had been in a -- in an altercation
13 with somebody earlier at the liquor house; right?

14 A Yes.

15 Q And that was Junior and his mother?

16 A Felshunti and Pee Wee.

17 Q That's -- that you were in a -- you were into it with
18 them there?

19 A Yes.

20 Q And do you remember -- recall originally -- do you
21 recall identifying Little Man as the shooter?

22 A I never identified Little Man as the shooter.

23 Q Do you recall giving police Little Man's name?

24 A I don't remember.

25 Q You don't remember. And do you recall an interview

1 you did with Officer Gary with the sheriff's office?

2 A Yes.

3 Q Okay. And that took place, it looks like, maybe
4 three days later; is that right?

5 A No, sir.

6 Q The next day?

7 A Yes.

8 Q Okay. So had you had an occasion to speak with
9 Mr. Brewton prior to that?

10 A No, sir.

11 Q You were -- okay. You were in the -- one hospital
12 room, and Mr. Brewton's in another; right?

13 A Yes.

14 Q And then you left there and went to the police
15 station; correct?

16 A Yes.

17 Q All right. You -- you don't remember at the hospital
18 room giving the police Little Man's name?

19 A I didn't say Little Man was the shooter.

20 Q What did you say? You said he was involved?

21 A Yes. He was the reason all of it happened. But he
22 never was the shooter. He called Holmes.

23 Q Okay. So you said he caused everything. Do you
24 recall when you did the interview with Lieutenant Gary?
25 Did he ever give you a printed transcript of it?

1 A No, sir.

2 Q So you haven't seen this; right?

3 A No, sir.

4 Q Okay. Do you recall telling him that Mr. Hull
5 approaches this group of folks, F your guns, F y'all?

6 A No, sir.

7 Q And that was after everything had calmed down;
8 correct?

9 A After what calmed down?

10 Q I guess Mr. Brewton had kind of --

11 A Yes, sir.

12 Q -- he had gotten everybody separated.

13 A Yes, sir.

14 Q All right. So do you recall telling Lieutenant Gary
15 that Mr. Hull said, You ain't the only who's got guns?

16 A Mr. Hull -- I don't recall saying that.

17 Q You don't recall saying that?

18 A No.

19 Q Do you recall in that interview saying that you fired
20 a gun?

21 A No.

22 Q You don't --

23 A I never fired a gun. I never had a gun --

24 MR. HUNTER: Objection, Your Honor.

25 May we approach?

1 THE COURT: Okay.

2 (WHEREUPON, a bench conference was held.)

3 MR. HUNTER: Your Honor, we're going to object to the
4 transcript. But I believe he's going to play the audio.

5 THE COURT: Okay.

6 (WHEREUPON, a portion of an unmarked recording was
7 played in open court.)

8 THE COURT: Has that been introduced into evidence?

9 MR. THOMPSON: (Mr. Thompson shook his head.)

10 THE COURT: Don't -- don't play that yet.

11 MR. THOMPSON: Well, I was cross-examining him on the
12 written transcript. But I really can't authenticate it
13 until Investigator Gary testifies.

14 THE COURT: Well, I don't know that Mr. Hunter has an
15 objection to it, but we need to know what it is before we
16 start playing it --

17 MR. THOMPSON: Right. I would move the -- the
18 interview of Mr. Kilgore three days later after the
19 incident into evidence. This is Defendant's Exhibit
20 No. 1.

21 THE COURT: This is an interview by Investigator
22 Gary?

23 MR. THOMPSON: Yes, Your Honor, provided to me by the
24 State.

25 THE COURT: Okay.

1 MR. HUNTER: Your Honor, our only objection, at this
2 point, is that we'd ask that he proffer this evidence
3 first before we play it before the jury. Because I
4 believe his understanding of what it says is not exactly
5 what it says.

6 THE COURT: Okay. Let me ask the jury to, please, go
7 to your jury room. I'll address this issue and I'll bring
8 you back in just a few minutes.

9 Sir?

10 JUROR #36, RANDALL CHAMBERS: Can we get
11 clarification on the -- the use of a word in the testimony
12 that -- two words that sound very similar?

13 THE COURT: All right. Do this, when you go back,
14 write down your question on a piece of paper, give it to
15 the bailiff. He'll give it to me and I'll address it.

16 JUROR #36, RANDALL CHAMBERS: Thank you.

17 (WHEREUPON, the jury was excused from open court at
18 approximately 3:31 p.m.)

19 THE COURT: Was that Mr. Owens that got up and left
20 and went right past you?

21 THE BAILIFF: (The bailiff nodded.)

22 THE COURT: Well, I thought I instructed you to keep
23 those in their -- folks in their seats.

24 THE BAILIFF: I did. He said he had to go to the
25 bathroom or else he was going the pee on himself, Your

1 Honor.

2 THE COURT: Well, I gave him that chance to go
3 earlier --

4 THE BAILIFF: You sure did.

5 THE COURT: -- but he didn't leave.

6 THE BAILIFF: That's what I told him.

7 THE COURT: All right. Well, be sure he doesn't come
8 back in.

9 THE BAILIFF: Oh, he won't.

10 THE COURT: Because if he does, he'll have some time
11 to think about it at a local facility.

12 Okay. Mr. Hunter, what do you want to tell me?

13 MR. THOMPSON: Your Honor, I just --

14 THE COURT: No. I'm talking to Mr. Hunter.

15 MR. THOMPSON: I'm sorry.

16 THE COURT: He objected to this. So I'm trying to
17 find out what --

18 MR. HUNTER: Your Honor, he's attempting to play
19 this. And I'm fine with listening to this video. But
20 he's attempting to play it saying that, I believe,
21 Mr. Kilgore admitted to shooting at these individuals.
22 However, I do not believe that's what the interview says.
23 So that's why I'm asking to profer it so that we can hear
24 it --

25 THE COURT: All right. And y'all -- y'all both

1 listened to it.

2 Do you think that's what it says, Mr. Thompson?

3 MR. THOMPSON: Yes, yeah. That's what it says.

4 MR. HUNTER: He hasn't --

5 MR. THOMPSON: It's at 9:07.

6 THE COURT: All right. Well, let's play it then.

7 We'll see.

8 (WHEREUPON, a portion of an unmarked recording was
9 played in open court.)

10 MR. THOMPSON: That's where he said, I shot first.

11 THE COURT: Well, maybe I -- maybe I missed it.

12 MR. THOMPSON: All right. I'll play it again.

13 THE COURT: Well, y'all have listened to this thing
14 more than once, I'm sure.

15 What did he say, Mr. Hunter? Do you have an opinion?

16 MR. HUNTER: Your Honor, I can't tell if he said
17 shocked or shot.

18 THE COURT: You can't tell what?

19 MR. HUNTER: If he said shocked or shot. He can ask
20 him what he knew about that.

21 THE COURT: Well, let's hear it again.

22 (WHEREUPON, a portion of an unmarked recording was
23 played in open court.)

24 THE COURT: Okay. Well, it sounded like to me what I
25 heard was earlier, he said, I shot. I could have shot.

1 And then he said, I shot first. That's what it sounded
2 like to me. Now, maybe I missed it.

3 But, nevertheless, it can be played. And he can
4 explain what he said. And the jury can decide what the --
5 what the audio says. Okay.

6 MR. THOMPSON: And does the Court want to play it in
7 its entirety or...

8 THE COURT: Well, you can play whatever portion you
9 want to play for cross-examination purposes. But it's got
10 to be introduced as an exhibit. And then you can play all
11 or any portion you want to.

12 MR. THOMPSON: Your Honor, I move to enter that into
13 evidence.

14 MR. HUNTER: You've got to do it in front of the
15 jury.

16 MR. THOMPSON: Okay. I'm going to move for that.
17 And then I'm just going to play a portion.

18 THE COURT: Give that to the court reporter.

19 MR. THOMPSON: I'm just playing a portion, Your
20 Honor.

21 THE COURT: I understand.

22 (WHEREUPON, Defendant's Exhibit No. 1 was marked for
23 identification only.)

24 MR. HUNTER: Your Honor, we're going to need time to
25 make another DVD. Because that DVD has all of his

1 discovery and all of the interviews on it.

2 THE COURT: All right. Well, we'll mark that as a --
3 as an exhibit for now and --

4 MR. HUNTER: I can --

5 THE COURT: -- then it will be redacted
6 appropriately, and then it will be substituted. And this
7 will be a Court's Exhibit then.

8 How about that?

9 (WHEREUPON, there was no response.)

10 THE BAILIFF: May I approach?

11 THE COURT: Yes.

12 Bring the jury in.

13 (WHEREUPON, the jury came into open court at
14 approximately 3:41 p.m.)

15 (WHEREUPON, Court's Exhibit No. 1 was marked for
16 identification and admitted into evidence.)

17 THE COURT: Mr. Foreman, I have your request. And
18 the lawyers have promised me that they're going to clear
19 that issue up -- or question up for you through their
20 examination of Mr. Kilgore before he steps down from the
21 witness stand. If that hasn't been cleared up, you let me
22 know. Okay.

23 JUROR #36, RANDALL CHAMBERS: Thank you.

24 THE COURT: All right. Mr. Thompson, you may
25 proceed.

1 MR. THOMPSON: May it please the Court.

2 Your Honor, I move to enter a portion of that audio
3 into evidence as Defendant's Exhibit No. 1.

4 THE COURT: All right. And that's the interview by
5 Mr. Gary of the -- of Mr. Kilgore?

6 MR. THOMPSON: Of the Defendant -- of the witness,
7 yes, Your Honor.

8 THE COURT: All right.

9 MR. HUNTER: We just would object based on our
10 previous reasons, which you've overruled.

11 THE COURT: Well, I understand that, but I didn't
12 understand the reasoning.

13 Let me see y'all just a minute. I don't think you
14 gave me a reason.

15 (WHEREUPON, a bench conference was held.)

16 (WHEREUPON, Defendant's Exhibit No. 1 was admitted
17 into evidence.)

18 THE COURT: You may proceed.

19 CONTINUED CROSS-EXAMINATION

20 BY MR. THOMPSON:

21 Q And, Mr. Kilgore, you do recall that on the 28th you
22 did an interview that was recorded by Officer Gary;
23 correct?

24 A Correct.

25 Q Okay. And I'm going to play a portion of that.

1 (WHEREUPON, a portion of Defendant's Exhibit No. 1
2 was played in open court.)

3 BY MR. THOMPSON:

4 Q Okay. Mr. Kilgore, you heard that in there where you
5 said you shot first?

6 A No. I didn't say that, sir. I said I turned around
7 in shock.

8 Q You turned around --

9 A In shock.

10 Q In shock?

11 A Yeah. Like shock, like, you're just standing there,
12 and you're shocked.

13 Q And you're saying S-H-O-C-K?

14 A Yes.

15 Q So if I replay that, am I going to hear that?

16 A That's what you're going to hear if you listen hard
17 enough. That's what I said.

18 MR. THOMPSON: Your Honor, if I could republish one
19 more time. I'm going to try to get as close as I can to
20 it.

21 (WHEREUPON, a portion of Defendant's Exhibit No. 1
22 was played in open court.)

23 BY MR. THOMPSON:

24 Q So in that last statement, you kind of go back when
25 you say you were trying to get Robert away from those

1 guys. Remember?

2 A Correct.

3 Q And no shots had been fired at that time; right?

4 A We were trying to get him away. We took off. When
5 the shots came, we took off in shock. And that's when I
6 heard the shots coming.

7 Q Okay. So --

8 A I stood there shocked. I took off. That's when I
9 heard the shots coming. I took off because I heard the
10 shots coming.

11 Q Okay. But -- all right. But you said Robert had
12 done run up on them with -- with a guns [sic]?

13 A They had guns drawn. He was approaching them while
14 they had guns. He's approaching them with guns. They
15 have guns. That's what I'm stating. They have guns
16 drewed [sic]. And my cousin's approaching them while they
17 have guns out.

18 Q So --

19 A So we're trying to keep him from approaching them
20 while they have guns. We don't have no weapons on us.

21 Q So he's going to run up to some armed people saying,
22 Screw your guns --

23 A Correct.

24 Q And the other -- you heard earlier that Ms. Geter
25 testified he said, Do y'all want to fight or shoot?

1 A Correct.

2 Q Okay. And he's going to --

3 A Ms. Geter wasn't standing down there with us. She
4 was on the porch. So she was hearing the best way she
5 can. I was down there with him.

6 Q Okay. So -- but he -- he confronted armed people and
7 he's not armed at all?

8 A Correct. That's the type of guy he was. A gun never
9 feared him.

10 Q Okay. But prior to any shooting starting -- so you
11 go back. And you're saying that you're trying to get
12 Robert away from those guys?

13 A Correct.

14 Q And then that's when the shooting started happening.
15 So we're in the process of trying to get away. I mean, I
16 turned around, like, and shot first. And that is when I
17 heard sounds coming that way --

18 A I said in shock first.

19 Q So you were in shock before any guns were ever fired?

20 A No. I was in shock after he shot my cousin.

21 Q All right. Well, I'm going to -- I'm going to move
22 on. Okay.

23 Now, you indicated, also, in this interview that you
24 had known Little Man his whole life?

25 A Pretty much, yes, sir.

1 Q And y'all -- is he related to you?

2 A No, sir.

3 Q And do you recall indicating that Mr. Hull had got in
4 Mr. -- or Little Man's face?

5 A Yes.

6 Q Okay. Now, I'll clarify for the jury. Little Man
7 and Pee Wee are two different people; correct?

8 A Yes.

9 Q Okay. And so Little Man -- Pee Wee is -- you don't
10 know where he's at right here?

11 A He's standing out there.

12 Q He is there?

13 A Yes.

14 Q And about how many people were -- are out there at
15 the liquor house?

16 A At the liquor house, I couldn't tell you.

17 Q Was it more than 10?

18 A It was a crowd.

19 Q More than 10?

20 A Yes.

21 Q More than 20?

22 A I'd say yes.

23 Q Okay. So around 20, 25 people are out there. So --

24 A At that time, it wasn't nobody there. At that time,
25 everybody was leaving.

1 Q It was clearing out?

2 A Yes.

3 Q And that's when everybody -- and that's when you guys
4 went across the street and got in Mr. Brewton's car?

5 A Yes.

6 Q And you were going to pick Mr. Hull up?

7 A Yes.

8 Q Okay. Now -- and, at some point, you and Mr. --
9 Little Man were having words; right?

10 A Yes.

11 Q Was that not -- originally, he came out there to
12 confront you, did he not?

13 A Yes.

14 Q And that got cooled off; right?

15 A Yes.

16 Q And then we had a situation where Mr. Hull --
17 something triggered him to go back and confront those
18 gentlemen; right?

19 A Yes.

20 Q And do you know what that was?

21 A What -- rephrase that question.

22 Q Do you know what sparked Mr. Hull to confront that
23 crowd?

24 A He just always had a heart like that. He's not going
25 to let you bother his family.

1 Q So, at some point, he came -- went from the liquor
2 house to Ms. Geter's house; right?

3 A Yes.

4 Q And did you see him go in?

5 A No, sir.

6 Q Okay. You don't -- he could have went in. She said
7 he went in and changed shoes; right?

8 A Yeah. He could have went in. I didn't see him. I
9 had my back facing them.

10 Q And he -- he had items at the house there that he was
11 picking up?

12 A Yes.

13 Q And you were taking him home?

14 A Bruce was taking him home. Bruce was driving. Bruce
15 was taking us home.

16 Q And -- and so Mr. Hull didn't live there with
17 Ms. Geter?

18 A No, sir.

19 Q Okay. And, at some point, do you recall telling the
20 investigator that you and Little Man were like family?

21 A We grew up like family at one point in time.

22 Q All right. So if we recap, initially, you said five
23 times on the 911 tape you don't know who shot?

24 A Yes.

25 Q And you don't know who shot you?

1 A Yes.

2 Q And then, originally, you told the officer that you
3 didn't know who shot him?

4 A Yes.

5 Q But then later on, on the 28th, you identify two
6 people; correct?

7 MR. HUNTER: Objection. Misstating the facts in
8 evidence --

9 MR. THOMPSON: I'm sorry.

10 BY MR. THOMPSON:

11 Q In a subsequent -- a later interview, you identified
12 two fellows; right?

13 A Yes.

14 Q And then -- then you reinforced that on the 28th;
15 correct?

16 A I did what?

17 Q On this interview here, the one that we listened to
18 part of it -- and this may have been on the 25th, 26th.
19 But you -- you -- later on, you do -- you do bring two
20 names forward; right?

21 A Yes. That was right after I left the hospital.

22 Q Right. And then you indicated that at no time after
23 you were shot you ever went into the house or to the
24 house; correct?

25 A Yes, sir.

1 Q So you stayed right there by the -- by the car?

2 A Yes, sir.

3 Q And do you recall if you got in the passenger side or
4 driver's side?

5 A I don't recall. I think it was the passenger side.

6 Q You had indicated, also -- when Mr. Brewton -- did
7 Mr. Brewton drive the car over from where it was parked to
8 Ms. Geter's home or --

9 A He drove it to Ms. Geter's home.

10 Q He did?

11 A Yes.

12 Q And Red drove it out; right?

13 A Yes.

14 Q And I believe you had indicated that these guys took
15 off running toward the city?

16 A Yes.

17 Q And you, basically -- you, Mr. Brewton, and Red get
18 in the car?

19 A Yes.

20 Q And you take off to the hospital?

21 A Yes.

22 Q Did anybody -- was anybody attending to Mr. Hull?

23 A Anitra and Angela stood up, Angie.

24 Q Okay. But were they tending to him, or did you see
25 them near him?

1 A I don't know. At the moment, I don't know. I wasn't
2 there.

3 Q Okay. Had any of the crowd from the liquor house
4 moved over that way?

5 A No, sir.

6 Q And prior to this situation, you got into it with
7 Junior; is that correct?

8 A I never got into it with Junior. I got into it with
9 Felshunti.

10 Q Okay. So -- but you and he never came to blows, or
11 anything?

12 A No.

13 Q And you indicated you think you got to the liquor
14 house around 10:00?

15 A Yes. It was 10 something. I got off work at 10:00.

16 Q You got off work at 10:00?

17 A Yes.

18 Q Okay. So then you came to the liquor house. And you
19 think it was around 12:40 when everything blew up?

20 A Yes.

21 Q And I think you indicated, too, that it was dark out
22 there; right?

23 A Yes.

24 Q And Howard Street's not well lit; right?

25 A Yes.

1 Q And you have a situation where Mr. Brewton has pulled
2 the car in -- into the driveway, not backed it in?

3 A Yes. He pulled it in.

4 Q So this incident would have occurred behind the car;
5 right?

6 A Yes.

7 Q Do you recall if he left the lights on in the car,
8 turned it off?

9 A I don't recall.

10 Q But more than likely -- you don't recall the car
11 running, do you?

12 A No, sir.

13 Q Okay. And, at some point, you were asked to pick out
14 from a lineup the two people you said were there; correct?

15 A Yes, sir.

16 Q And do you recall picking out Little Man?

17 A Yes.

18 Q Do you recall picking out Mr. Simpson?

19 A Yes.

20 Q And let me show you a picture.

21 MR. THOMPSON: May I approach the witness, Your
22 Honor?

23 BY MR. THOMPSON:

24 Q Is that a photograph --

25 THE COURT: For -- for clarification, let me ask

1 y'all, when you use a nickname like Little Man, have him
2 identify who Little Man is.

3 MR. THOMPSON: I'm sorry.

4 BY MR. THOMPSON:.

5 Q That's Mr. Clark; right?

6 A Yes, Felshunti Clark.

7 Q Felshunti Clark. Okay. Is that the picture you used
8 to identify --

9 A Yes.

10 Q Okay. And you will admit that there's no dreadlocks
11 on there?

12 A Yes.

13 Q And, at that time, there were no dreadlocks worn by
14 Mr. Simpson?

15 A Yes.

16 Q On this photograph; right?

17 A Uh-huh.

18 Q And that's -- how often would you see Little Man
19 since you said you grew up -- or he -- you knew him since
20 he was young, Mr. Clark?

21 A I saw Mr. Clark pretty often.

22 Q And how often would you see Mr. Holmes -- I mean
23 Holmes Simpson-Davis?

24 A I didn't see Holmes as much as I seen Little Man.

25 Q Can you give me an idea? Did you see him monthly?

1 Twice a year?

2 A I'd say since we all had got older, maybe five, six
3 times throughout the year, something like that.

4 Q All right. So you saw him more when he was young
5 than when he was older?

6 A Yes.

7 Q And how long after you were shot did you take off to
8 the hospital?

9 A I don't recall.

10 Q Okay. At some point, were you the one that stated
11 you kind of walked down the road?

12 A No, sir.

13 Q You didn't. Okay. And you don't know how much time
14 elapsed from the time the shooting took place until you
15 guys left for the hospital?

16 A No, sir. I don't recall.

17 Q All right. And so when you went to the hospital, you
18 didn't go toward the city in the direction that you saw --

19 A No, sir.

20 Q But you did see the guys run that way that were
21 responsible for the shooting?

22 A Yes, sir.

23 Q You guys went the opposite way?

24 A Yes, sir.

25 Q And you would have took a right at Little Man's Auto

1 Parts; right, California Avenue?

2 A We took a right before then. We took a right and
3 went down to the Cleveland Park area, if I'm not mistaken.

4 Q Okay. So you didn't go to California Avenue; right?

5 A No, sir. I don't recall. I don't think so.

6 Q And Red was driving; correct?

7 A Yes.

8 Q And that's Mr. Young?

9 A Yes.

10 Q At one point earlier, you indicated something about
11 Mr. Clark had caused the whole incident?

12 A Yes.

13 Q So had you ever had any dealings -- any negative
14 correspondence with Mr. Clark prior to this evening?

15 A We had done had an experience in the past. But it
16 never got to where we fistfight, or nothing. We be all
17 right with each other later on that day, or something.

18 Q Okay. So it's kind of a love-hate relationship,
19 maybe?

20 A Yes.

21 Q On that evening, y'all were into it?

22 A Yes.

23 Q Would that be safe to say?

24 A Huh?

25 Q Would it be safe to say that evening, you guys were

1 kind of into it?

2 A Yeah. We got into it, yes.

3 Q And Mr. Brewton is, I think, related to both of you
4 guys somehow, or another. He got you guys busted --
5 broken up; right?

6 A Yes.

7 MR. THOMPSON: All right. No further questions.

8 MR. HUNTER: Briefly, Your Honor.

9 REDIRECT EXAMINATION.

10 BY MR. HUNTER:

11 Q I know this is going to sound like a weird question.
12 But what county did this happen in?

13 A Spartanburg County.

14 Q Okay. You've seen the pictures where there's a -- it
15 looks like a Chevy Avalanche in the yard?

16 A Yes.

17 Q Was that present when you pulled up with Mr. Brewton?

18 A I can't recall, but I think it was.

19 Q Okay.

20 A But I can't recall.

21 Q Did y'all pull up behind that car possibly?

22 A I think so.

23 Q Okay. And I want to get this straight. Please tell
24 the jury who had weapons that night.

25 A Holmes Simpson-Davis and another guy. Felshunti

1 didn't have a gun on him.

2 Q So did Felshunti have a weapon on him that you
3 recall?

4 A No, sir.

5 Q Did you see Bruce Brewton with a weapon?

6 A No, sir.

7 Q Did you see Robert Hull with a weapon?

8 A No, sir.

9 Q And did you have a weapon?

10 A No, sir.

11 Q Okay. And, in fact, when you started running away --
12 why did you start running away?

13 A Because they were shooting in the yard afterwards.

14 Q Okay. Was there -- did the shots happen all in one
15 second, or was it multiple shots over time?

16 A After he was shot, it was like a pause like -- like
17 someone did something and they realizing what they done
18 did. And then shots started coming towards the yard.

19 Q Okay. So the first shot that Holmes shot was
20 Mr. Hull?

21 A Yes.

22 Q And then a slight pause, very short?

23 A Yes.

24 Q And then more shots?

25 A Yes.

1 Q Okay. Did you see where Mr. Davis, and Mr. Clark,
2 and that group went?

3 A I think they went down -- they went down towards the
4 city.

5 Q And then y'all went the other way?

6 A Yes.

7 MR. HUNTER: Okay. Thank you.

8 MR. THOMPSON: Briefly, Your Honor.

9 RECROSS-EXAMINATION

10 BY MR. THOMPSON:

11 Q You said you believe the Chevrolet Avalanche was in
12 the driveway?

13 A Yes. I can't recall, but I think it was.

14 Q Okay. And, at some point, you merge back toward the
15 house --

16 A Yes.

17 Q -- to go back to get him. You go back to get
18 Mr. Hull?

19 A Rephrase your question.

20 Q Yeah. At some point, you said you were trying to get
21 Mr. Hull away from --

22 A Yes.

23 Q That was at the back of the other car, Mr. Brewton's
24 car; right?

25 A Yes.

1 Q Okay. And you were down by the porch then; right?

2 A By the porch?

3 Q I think so.

4 A No.

5 Q Where were you then?

6 A I was standing behind Hull, Robert Hull.

7 Q Did you -- you were there pulling him away?

8 A Yes. At one point in time, I was pulling his shirt.

9 And he broke loose and got on up to them. And I still
10 wasn't far from him when the shooting happened.

11 Q So you -- you were behind him you think?

12 A Yes, behind him. On the side of him, but behind him.

13 Q And that was -- you were beside the -- Mr. Brewton's
14 car at that point?

15 A Yes, like the back of it.

16 MR. THOMPSON: I have no further questions.

17 MR. HUNTER: Can Mr. Kilgore be excused?

18 THE COURT: He may be.

19 You can step down.

20 We're going to take a short break. I know the jury
21 has already had a break, but we didn't take a break while
22 you were having a break. And while that's not so
23 important for me, it is important for the court reporter.
24 Because she has to take down everything that's said. And
25 she gets tired, and she might not be able to do that. So

1 MR. HUNTER: Thank you, Your Honor.

2 The State calls Michael Shaun Nix to the stand.

3 THE COURT: Put your juror number on your notepad so
4 we'll know whose is whose.

5 THE CLERK: Place your left hand on the Bible and
6 raise your right hand.

7 WHEREUPON,

8 MICHAEL SHAUN NIX,
9 after first having been duly sworn, testified as follows:

10 THE CLERK: Have a seat.

11 DIRECT EXAMINATION

12 BY MR. HUNTER:

13 Q Mr. Nix, will you, please, speak up loudly for us.
14 Please give us your full name and rank.

15 A Michael Shaun Nix, Spartanburg County Sheriff's
16 Department, master deputy.

17 Q Okay. And how long have you been with the sheriff's
18 office?

19 A It'll be 16 years this past June.

20 Q Okay. What are your current duties at the sheriff's
21 office?

22 A Crime scene unit.

23 Q All right. Did you happen to be working for the
24 crime scene unit in 2015 on July 25th?

25 A Yes, sir.

1 Q Okay. Did you have a chance to go to the scene at
2 [REDACTED]?

3 A Yes, sir.

4 Q What county is that scene located in?

5 A It is located in Spartanburg County, sir.

6 Q Tell me what you did when you arrived.

7 A When I arrived, I got a brief description of the
8 events that lead up to the incident scene. I then met
9 with Investigator Graham, who had already placed down some
10 evidence placards on scene. And from there, we went about
11 documenting and collecting evidence of the crime.

12 Q Who documented most of the evidence?

13 A The photographs, that would be me.

14 Q Okay. But as far as placing the placards down, who
15 did that?

16 A That'd be Investigator Graham.

17 Q Okay. Who collected all of the evidence?

18 A Investigator Graham.

19 Q And does he work for you in the crime scene
20 department?

21 A He works with me, yes, sir.

22 Q Are you his commanding officer?

23 A (There was no response.)

24 Q Are you in charge of the crime scene department?

25 A Yes.

1 Q Okay. So there may be a sergeant above you, but
2 you're in charge of the crime scene, and he's part of that
3 unit with you?

4 A For the forensics unit, yes, sir.

5 Q Okay. When you arrive and you look over the scene
6 and you talk to the officers, where do you go next?

7 A I'm not understanding.

8 Q After you talked to Investigator Graham and you see
9 the placards, where do you go after that?

10 A I start doing what I need to do to document the crime
11 scene.

12 Q All right. And those are the photographs that a lot
13 of the jurors have already seen; is that correct?

14 A Yes, sir.

15 Q What -- where do you start first?

16 A I start the photographing first.

17 Q Okay. But where at [REDACTED] do you
18 remember starting first?

19 A I don't remember exactly, but probably with the
20 evidence that had already been marked with placards.

21 Q Did you go to the victim?

22 A Yes. We, eventually, got to him as well.

23 Q Okay. And what do you do when you have a victim in
24 this case, in a homicide case?

25 A We take good overall photographs. If there are any

1 visible injuries, we take photographs of those as well.
2 We collect any evidence on the body that has to be
3 collected at that time. And then we make measurements to
4 document where exactly he's at. We have to recreate the
5 scene.

6 Q Okay. And what -- what measurements did you take?

7 A Triangulation measurements.

8 Q Can you explain what those are?

9 A It's where you pick out two points to the best of
10 your ability of a fixed location that's supposed to be
11 permanent, and then you measure from those two points to
12 whatever item you're measuring.

13 Q Let me show you what's been pre-marked as State's
14 Exhibit No. 57. Do you recognize these pages?

15 A Yes, sir.

16 Q Okay. And who created that document?

17 A The diagram was created by me.

18 Q All right. And how did you create that document?

19 A Just a simple little sketch program on our computer.

20 Q Okay. Now, what is on that document?

21 A On this document is a diagram of the crime scene
22 followed by pages that have a legend that tells what the
23 individual numbers are. And then the last two pages are
24 the measurements.

25 Q And those are the measurements that you were speaking

1 about earlier?

2 A Yes, sir.

3 Q Okay. Now, on the diagram, are there, also, some
4 numbers?

5 A Yes, sir.

6 Q And what do they coordinate to?

7 A They should be the numbered placards that we took
8 photographs of next to the evidence.

9 MR. HUNTER: Your Honor, at this time, the State
10 would offer State's Exhibit No. 57 into evidence.

11 MR. THOMPSON: Is that the four page --

12 MR. HUNTER: What I just showed him.

13 MR. THOMPSON: The entire four pages.

14 No objection.

15 THE COURT: It's admitted.

16 (WHEREUPON, State's Exhibit No. 57 was admitted into
17 evidence.)

18 BY MR. HUNTER:

19 Q So that's the diagram that you draw -- drew?

20 A Yes, sir.

21 Q Okay. Obviously, I guess in the middle of the
22 picture, there's a body. Is that where Mr. Hull was
23 located?

24 A Yes, sir.

25 Q Okay. Can you briefly describe what the buildings

1 are, how it -- and if you -- there's a laser pointer there
2 in front of you if you'd like to use that.

3 A Yes, sir. As you can see at the top of the page --

4 Q Excuse me for a second. If you would come down --

5 A Oh, okay.

6 Q -- and stand right here in front of this microphone.
7 Make sure you don't turn your back to the court reporter.

8 A Okay.

9 Q Stand about right here so the microphone can pick you
10 up.

11 A As you can see, at the top of the page is two
12 squares. One is marked 1064. The other one is marked
13 1062. Those are two houses. And the numbers are the
14 addresses of those houses. This long road here is Howard
15 Street. This little side road is Wayland.

16 Obviously, a vehicle, the body of the victim. And,
17 of course, the numbers are the numbered placards for
18 evidence. A and B is one set of triangulation points. C
19 and D is a second set of triangulation points.

20 Q And, also, as part of this document, these numbers,
21 what do they indicate?

22 A They should -- they should represent items of
23 evidence that were collected.

24 Q All right. If you'd like to look at the second page,
25 I believe, of this diagram.

1 A The second page?

2 Q It's the legend of this; is that correct?

3 A Yes, sir.

4 Q Can you, please, tell us where the .45 shell casings
5 are located?

6 A Yes, sir. The .45 shell casings are, according to
7 this legend, item five, item six, item seven, item 10,
8 item 13, and item 28.

9 Q Those are all located -- I guess if you're looking at
10 the left of this page, that's heading towards the city?

11 A Yes. If you're traveling down Howard Street in this
12 direction, that's heading back toward the city.

13 Q Okay. And most of those are located on that side of
14 the street; is that correct?

15 A Yes, sir.

16 Q Okay. Now, later, you were able to discover some
17 evidence that's not listed here on this diagram later in
18 the morning; is that correct?

19 A That is correct, sir.

20 Q All right. Where was that located in reference to
21 this diagram?

22 A It will be off of this diagram down this way like
23 you're heading back toward the city at the next
24 intersection, which is Howard and Lanier Street.

25 Q Were you able to locate some bullets and bullet

1 fragments in the yard of [REDACTED]?

2 A Yes, sir.

3 Q And where were they located?

4 A Let's see. I have a fired bullet at item 23. A
5 fired bullet at item 24. A fired bullet fragment at item
6 25. A fired bullet at 26. Another fired bullet at 27.

7 Q Okay. And were you, also, able to view what looked
8 like a bullet hole in the house at [REDACTED]

9 A That is correct, sir.

10 Q Were you able to retrieve that bullet, however?

11 A No, sir.

12 Q Why not?

13 A Well, it was somewhere in the wall and it had not
14 penetrated into the interior of the residence. So in
15 order to find that bullet, we would have had to tear the
16 entire side of the wall, either one side or the other out,
17 to retrieve it.

18 Q You can take a seat.

19 A Thank you.

20 Q Did you attend the autopsy of Mr. Hull?

21 A Yes, sir.

22 Q Who was present at that autopsy?

23 A Dr. Wren. And I don't recall who the investigators
24 were.

25 Q Was there a coroner most likely there?

1 A Yes. There was a coroner.

2 Q During that autopsy, did you recover any evidence
3 from the body of the victim?

4 A We recovered clothing and, eventually, a fired
5 bullet.

6 Q Okay. Let me show you what's been pre-marked as
7 State's Exhibit No. 56. Do you recognize that item?

8 A Yes, sir.

9 Q How do you recognize that item?

10 A It's the item that I collected from the body of the
11 victim after it was removed by Dr. Wren.

12 Q Okay. Is it in the same or substantially the same
13 condition as you recovered it?

14 A I remember -- I believe so, if I remember correctly.

15 Q We had an investigator -- a SLED investigator testify
16 that the bullet came apart when he investigated it.
17 However, does that still appear to be what you recovered?

18 A I believe so. Because I believe it has Dr. Wren's --
19 whatever he puts on the bottom of them -- on the bottom of
20 it.

21 Q Okay. That is the bullet you recovered from the body
22 of Robert Hull?

23 A Yes, sir.

24 MR. HUNTER: Your Honor, at this time, the State
25 would offer State's Exhibit No. 56 into evidence.

1 MR. THOMPSON: That's the SLED bullet that we looked
2 at earlier?

3 MR. HUNTER: Yes.

4 MR. THOMPSON: No objection.

5 THE COURT: It's admitted.

6 (WHEREUPON, State's Exhibit No. 56 was admitted into
7 evidence.)

8 BY MR. HUNTER:

9 Q Just real briefly. Did you on any of this diagram or
10 anywhere else in that residence recover any weapons?

11 A No, sir.

12 Q Okay. Did you recover any shell casings in the yard
13 or driveway of [REDACTED]?

14 A No, sir.

15 Q All the shell casings were recovered on Howard Street
16 heading back towards the city; is that correct?

17 A Yes, sir.

18 MR. HUNTER: Please answer any questions Mr. Thompson
19 may have for you.

20 MR. THOMPSON: May it please the Court, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. THOMPSON:

23 Q Officer, these casings -- you get to the scene and
24 you start marking those; correct?

25 A Eventually, yes, sir, we will.

1 Q Okay. And then -- but you have no way of knowing
2 which direction the shots were fired if the casings are on
3 the ground; right?

4 A By casings alone, no, sir.

5 Q Okay. And the -- did you seek out any -- did you
6 search and see if any bullets were on the other side of
7 the road, or any -- any of them -- any bullets were on the
8 other side of the road?

9 A Are you talking about heading back towards the city?

10 Q Well, on the opposite side of 1064 and [REDACTED]?

11 A (There was no response.)

12 Q Those structures on -- I think it's --

13 A I don't remember if there were other structures on
14 the other side of the street. So I can't say for sure.

15 Q Okay. And you'll agree with me that there's no shell
16 casings around the victim, at this point, either; correct,
17 when you arrived on the scene?

18 A Yes, sir.

19 Q Now, you said you didn't measure. So in your
20 estimation from your work you did, however, would
21 number -- Exhibit No. 16 be from the victim?

22 A 16 from the victim itself? That's not how our
23 triangulations work. I would have to --

24 Q 13? Do you know?

25 A No. Triangulations are only measured from points,

1 like Exhibit A, B or C, D to the item that is collected.

2 Q So you don't have a scale then?

3 A No, no. This is not to scale. And it even says so
4 somewhere on it.

5 Q Right. So -- but 13 -- you would agree if you were
6 standing and 13 was at your feet, it would be about even
7 with the steps of 1064?

8 A Judging by what I'm seeing, yes, sir.

9 Q And I believe there was more shell casings found than
10 bullets; right?

11 A Yes.

12 MR. THOMPSON: No further questions.

13 MR. HUNTER: Nothing from the State, Your Honor.

14 THE COURT: Step down.

15 MR. HUNTER: May we approach?

16 THE COURT: Yes.

17 (WHEREUPON, a bench conference was held.)

18 MS. MABBS: The State would call --

19 MR. HUNTER: Hold on a second.

20 Can Mr. Nix be excused, Your Honor?

21 THE COURT: He may be.

22 MS. MABBS: The State calls Deputy Allen.

23 WHEREUPON,

24 KELBY ALLEN,

25 after first having been duly sworn, testified as follows:

1 THE CLERK: Thank you.

2 Have a seat.

3 DIRECT EXAMINATION

4 BY MS. MABBS:

5 Q Deputy Allen, can you, please, introduce yourself to
6 the jury?

7 A Kelby Allen, Spartanburg County Sheriff's Office,
8 deputy.

9 Q How long have you been with the sheriff's office?

10 A Approximately five years.

11 Q Five years. And what are some of your duties at the
12 sheriff's office?

13 A I'm on uniform patrol. So I answer various calls for
14 service.

15 Q And do you recall responding to a call on July 25th
16 of 2015?

17 A Yes.

18 Q Can you briefly explain what happened when you
19 received that call?

20 A I responded at [REDACTED] located in
21 Spartanburg County in reference to a shooting.

22 Q And what did you do when you arrived at the scene?

23 A Upon my arrival, another officer that was already on
24 the scene had informed me that there were witnesses inside
25 a vehicle parked on the side of the road that possibly

1 could have seen --

2 MR. THOMPSON: I object to hearsay, Your Honor.

3 MS. MABBS: Your Honor, he's not giving statements.
4 He's discussing what he learned.

5 THE COURT: Well, are these witnesses that have or
6 will testify?

7 MS. MABBS: Yes, Your Honor.

8 THE COURT: All right. Overruled.

9 THE WITNESS: Another deputy told me that there were
10 possible witnesses that possibly had seen the incident.

11 BY MS. MABBS:

12 Q And was that Deputy Shehan that let you know that?

13 A I believe so.

14 Q And were you able to speak with those witnesses?

15 A I did.

16 Q And what information, if any, were they able to
17 provide?

18 A The only thing that the witnesses could provide were
19 it was a black male wearing a white shirt running into a
20 silver in color Lexus, and getting in the passenger seat.

21 Q Were they able to provide you with any information
22 about that Lexus?

23 A They could give me a tag.

24 Q And when you spoke with those witnesses and when you
25 were at the scene, were you wearing a body-worn camera?

1 A I was.

2 Q And do you have training in how to operate that
3 body-worn camera?

4 A Yes.

5 Q Would that be the same type of camera that Deputy
6 Shehan would be wearing?

7 A Yes.

8 Q And was your camera operational that day?

9 A Yes.

10 Q Deputy, I'm handing you what's been marked as State's
11 Exhibit No. 53. Do you recognize that disk?

12 A Yes.

13 Q And what is that?

14 A It is a copy of my body camera footage from that
15 night.

16 Q And when did you -- when would you have uploaded that
17 footage?

18 A Before the end of my shift.

19 Q And are you able to alter that footage at all?

20 A No.

21 Q And since you've uploaded, have you had the
22 opportunity to review that?

23 A Yes.

24 Q And when was the last time you reviewed the footage?

25 A September 5th, 2017.

1 Q And did you make any notes on the disk after you
2 reviewed it?

3 A I just initialled and --

4 Q That's fine.

5 A -- dated it.

6 Q And, Deputy Allen, when you reviewed that, was
7 that -- is that still a fair and accurate depiction --

8 A Yes.

9 Q -- of what you saw that evening?

10 A Yes.

11 MS. MABBS: Your Honor, at this time, the State moves
12 State's Exhibit No. 53 into evidence.

13 MR. THOMPSON: No objection. \

14 THE COURT: It's admitted.

15 (WHEREUPON, State's Exhibit No. 53 was admitted into
16 evidence.)

17 MS. MABBS: And permission to publish, Your Honor.

18 THE COURT: You may.

19 (WHEREUPON, State's Exhibit No. 53 was played in
20 open court.)

21 BY MS. MABBS:

22 Q Deputy Allen, I'm going to go ahead and cut it off
23 there. Now, after the photos that we see here, were you
24 able to get a statement from one of those occupants?

25 A I was.

1 Q And I know you mentioned earlier and we saw in this
2 video that they were able to give you some information on
3 that Lexus. What did you do with that information?

4 A Once they gave me the tag number, I tried to give it
5 to dispatch so they could put a BOLO out.

6 Q And did you give that information to anyone else at
7 the scene?

8 A I believe so.

9 Q All right. And who would you give that information
10 to?

11 A The investigators.

12 Q And is that part of your standard procedures?

13 A Yes.

14 Q And beyond getting this statement, what was your
15 involvement in the scene?

16 A After talking with them, I then relocated my vehicle
17 to help with the security of the crime scene.

18 Q So when you say "security," does that mean making
19 sure nobody comes in --

20 A Right.

21 Q -- or out that's not supposed to?

22 A Right.

23 MS. MABBS: Please answer any questions that

24 Mr. Thompson may have for you.

25 MR. THOMPSON: May it please the Court, Your Honor.

CROSS-EXAMINATION

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BY MR. THOMPSON:

Q And it's Officer Allen; correct?

A Yes, sir.

Q Okay. And did -- you did secure a statement from only one person in the automobile?

A Yes, sir.

Q The other two didn't provide a statement; right?

A No, sir.

Q And I believe you indicated that -- well, let's -- when you -- when you're in the automobile and you're coming in the car, are you coming from the city side of Howard Street, or are you coming from the sheriff's department side?

A I was coming from the sheriff's office side --

Q Okay.

A -- on Howard Street.

Q All right. And these folks are already pulled over, or how were they --

A They were already pulled over on the side of the road, sir.

Q They were pulled over?

A Yes, sir.

Q So -- so the crime scene was already secured, you think?

1 A Yes, sir.

2 Q Okay. And when you go there, you -- I guess it was
3 Ms. Herring, was that one of them's name?

4 A Ariel Moore.

5 Q It looks like Ariel --

6 MR. THOMPSON: If I may approach the witness, Your
7 Honor.

8 BY MR. THOMPSON:

9 Q Does this look like the statement that you -- in
10 fact, did you take the statement, or did someone else?

11 A I took the statement.

12 Q Okay. Does that look like it?

13 A Yes, sir.

14 Q Okay. So -- and that's Ariel Herring; correct?

15 A Yes, sir.

16 Q Okay. In what direction was Ms. Herring headed?

17 A My vehicle was stopped at the light. She was headed
18 from the sheriff's office towards the city.

19 Q Same direction as you?

20 A Yes, sir.

21 Q Okay. And then she indicates that she sees a man on
22 the ground. Is she talking about the victim?

23 A Yes, sir.

24 Q And then somebody else is calling 911; correct?

25 A I don't know if somebody else is calling 911, sir.

1 Q That's what you said she -- she indicates that's what
2 she thinks it is on Line 2 there; correct?

3 A It looks like she sees somebody on the phone. And
4 she believes that they were calling 911.

5 Q Right. So she's, evidently -- she's, evidently,
6 driven by before -- before or after the scene was secured.
7 Do you know?

8 A Before, sir.

9 Q Before?

10 A Yes, sir.

11 Q So -- and you say she's coming from the sheriff's
12 office direction, or --

13 A The way she was parked, sir, she -- it appeared she
14 was coming from the sheriff's office when I pulled up.

15 Q Okay. And was she on the sheriff's office side of
16 [REDACTED], or on the other side?

17 A She was on the sheriff's office side where she was
18 parked.

19 Q Okay. And about how far from [REDACTED]
20 would you say she was?

21 A I can't recall. It was a good distance from --

22 Q Okay. So she's between California Avenue --

23 A Yes, sir.

24 Q -- and [REDACTED]

25 A Yes, sir.

1 Q Going toward the city?

2 A Yes, sir.

3 Q Okay. And she indicated she saw a man walking down
4 the street; correct?

5 A She indicated that she noticed a person getting in --
6 running towards a vehicle and getting inside the vehicle.

7 Q And she didn't give you any reason to believe she saw
8 this person on the other side of [REDACTED] did she?

9 A No, sir.

10 Q And I had trouble hearing that -- and I don't hear
11 that great. But did she ever give you a description of
12 this person that she saw get in the Lexus?

13 A All that was told to me was a black male wearing a
14 black shirt.

15 MR. THOMPSON: I have no further questions.

16 REDIRECT EXAMINATION

17 BY MS. MABBS:

18 Q Briefly, Deputy Allen. When you arrived on the
19 scene, another deputy had already told, I guess,
20 Ms. Herring to pull over; correct?

21 A I believe so.

22 Q And, by that point, other officers were already on
23 scene?

24 A Yes.

25 Q And so you're not aware of, I guess, what -- where

1 she was when they initially --

2 A Right.

3 Q -- had spoken with her, the direction?

4 A Right.

5 MS. MABBS: Nothing further, Your Honor.

6 MR. THOMPSON: Nothing further.

7 THE COURT: You may step down.

8 MS. MABBS: Can he be excused, Your Honor?

9 THE COURT: He may be.

10 We'll break for the afternoon. Let me remind the
11 jury of my caution previously given, no discussions about
12 the case, no research, no investigation, no type of media
13 exposure.

14 If you'll just stack those notepads on the witness
15 rail there as you leave, we'll put them in a box and
16 secure them for the night, and then give them back to you
17 in the morning.

18 Okay. Have a good evening.

19 We'll see you in the morning at 9:30, 9:30 in the
20 morning.

21 (WHEREUPON, the jury was excused from open court at
22 approximately 5:03 p.m.)

23 THE BAILIFF: The jury has gone, Your Honor.

24 THE COURT: All right. Court is in recess until 9:30
25 in the morning!

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All Exhibits were retained by the Clerk of Court for Spartanburg County.

1 MR. HUNTER: Your Honor, the State has created a disk
2 with the Kilgore interview that was placed into evidence
3 by the Defense. It's Defendant's Exhibit No. 1. The disk
4 that was put in evidence had all of -- most of
5 Mr. Thompson's discovery, as well as some other audios.

6 So we've created a disk that is just the interview.
7 We'd like to switch that out and make the disk that was
8 placed into evidence a Court's Exhibit, and make this disk
9 Defendant's Exhibit No. 1.

10 THE COURT: All right. Mr. Thompson, are you
11 satisfied with that disk?

12 MR. THOMPSON: I haven't listened to it, but I'm sure
13 it's the portion that we played. I wasn't, you know --

14 Did you play the whole interview, or -- or just a
15 portion?

16 MR. HUNTER: It's the whole interview.

17 MR. THOMPSON: Okay.

18 THE COURT: The disk you have is the entire
19 interview?

20 MR. HUNTER: It is the entire interview, yes, Your
21 Honor.

22 THE COURT: Of Mr. Kilgore with Investigator Gary?

23 MR. HUNTER: Yes, Your Honor.

24 THE COURT: Okay. And we've, also, created -- in
25 case Mr. Thompson wants to put Mr. Brewton's interview in,

1 we've created a separate disk with just Mr. Brewton's
2 interview as well.

3 (WHEREUPON, Defendant's Exhibit No. 1 was remarked.)

4 (WHEREUPON, Court's Exhibit No. 2 was marked and
5 admitted into evidence.)

6 THE COURT: All right. Who's the first witness up
7 today?

8 MR. HUNTER: Ariel Moore-Herring.

9 THE COURT: Is the jury ready?

10 THE BAILIFF: Yes, Your Honor.

11 THE COURT: Bring them in, please.

12 (WHEREUPON, the jury came into open court at
13 approximately 9:43 a.m.)

14 THE COURT: Good morning, ladies and gentlemen.

15 As you know, when we recessed yesterday, the State
16 was still in the midst of their presentation of evidence.
17 So we'll continue with that presentation this morning.

18 Mr. Hunter.

19 MR. HUNTER: Your Honor, may it please the Court.

20 The State calls Ariel Moore.

21 THE CLERK: Raise your right hand and place your left
22 hand on the Bible.

23 WHEREUPON,

24 ARIEL MOORE-HERRING,

25 after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

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BY MR. HUNTER:

Q All right. Ms. Moore, as I've stated to some of the other witnesses, make sure you speak into the microphone so everybody can hear you. Okay.

A Okay.

Q Please state your full name for the record.

A My name is Ariel Moore-Herring.

Q Ariel Moore-Herring?

A (Witness nodded.)

Q And how old are you, Ms. Herring?

A 22.

Q Okay. Are you currently in school?

A Yes.

Q Where are you in school?

A University of South Carolina Upstate.

Q Getting a degree in?

A Marketing.

Q Okay. Do you, also, work?

A I work for myself.

Q Doing what?

A I'm a T-shirt designer and a photographer.

Q Okay. Do you remember the night -- or I guess the morning of July 25th, 2015?

A I do.

1 Q And where were you that morning?

2 A Celebrating a friend's birthday. We had to take
3 Howard Street because there was a train on the tracks.

4 Q Okay. And when you said you had to take Howard
5 Street, what direction were you coming from?

6 A Towards the city.

7 Q Okay. So you were coming from the sheriff's office
8 towards the fairgrounds, or towards the city?

9 A Correct.

10 Q Okay. And when you get to the area around [REDACTED]
11 [REDACTED] what do you notice?

12 A A man on the ground, and people running down the
13 street.

14 Q Okay. And the man on the ground, was he moving?

15 A He was dead.

16 Q Okay. And you're in your car with two other
17 individuals?

18 A Correct.

19 Q Okay. I want to ask you a question first. Do you
20 see the gentleman sitting over there at the Defense table?

21 A Uh-huh.

22 Q Do you recognize him at all?

23 A I do not.

24 Q Have you ever met him?

25 A I have not.

1 Q Do you know him at all?

2 A I do not.

3 Q And these people sitting back here, do you recognize
4 any of them?

5 A None of them.

6 Q So you're not related by blood or marriage or friends
7 with anybody in this courtroom?

8 A Correct.

9 Q And as you're coming down Howard Street, you see the
10 man dead at the driveway. What else do you observe?

11 A People running and just -- people just looking at
12 him, like, not helping him. People running down the
13 street. People running every which way.

14 Q All right. And so you drive towards the city and you
15 see people running towards the city?

16 A Yeah.

17 Q Okay. What do you observe at that point?

18 A I see some people getting in a car.

19 Q Okay. Which way is that car heading?

20 A That car is heading -- it was faced towards the city,
21 but they cut off a road.

22 Q Okay. But they were on Howard Street at the time?

23 A Correct.

24 Q Going in the same direction as you?

25 A Correct.

1 Q All right. And you observed someone getting into
2 this vehicle?

3 A Two or three people.

4 Q Okay. Can you tell me anything about the car?

5 A I think it was white maybe. I'm not sure.

6 Q All right. Did you give a description to the police
7 officers?

8 A I didn't have a description. But me and my friends,
9 we were able to get a license plate number, somewhat.

10 Q Do you have a copy of your statement with you?

11 A I do.

12 Q Would being able to look at your statement help
13 refresh your memory?

14 A Yes.

15 Q All right. And you just -- you don't need to read
16 it. Just kind of look at it and go over it to yourself.
17 And I'll ask some other questions.

18 A Okay.

19 Q All right. Do you remember giving a description of
20 the vehicle to officers at this point?

21 A I -- yes.

22 Q All right. And what type of car was that?

23 A A Lexus.

24 Q Okay. And you said you, also, were able to get a tag
25 number?

1 A I was.

2 Q Okay. And what was the tag number that you gave to
3 officers?

4 A GDF 329.

5 Q All right. How far away were you from the vehicle?

6 A Maybe about where you are.

7 Q Okay. And after you observed this, where -- that
8 vehicle turns off on to a side street?

9 A Correct.

10 Q What do you and your friends do?

11 A Turn back around.

12 Q So you come back up towards the crime scene?

13 A Correct.

14 Q Okay. So, at this point, when you view the vehicle
15 and someone getting in it and see the tag, you're past

16 [REDACTED] heading towards the city?

17 A Correct.

18 Q All right. When you turn back around, you come back
19 up towards the sheriff's office?

20 A Correct.

21 Q And what -- who's on scene by this point?

22 A I'm not sure.

23 Q Are there any police officers on scene?

24 A Yes.

25 Q Okay. And then they direct you to pull over?

1 A Correct.

2 Q And then you end up having to pull back over facing
3 back towards the city; is that correct?

4 A Correct.

5 Q All right. So I just want to make sure we get your
6 car movements correct.

7 A Uh-huh.

8 Q At first, you're heading towards the city?

9 A Uh-huh.

10 Q And the driveway where the dead gentleman is is on
11 your right?

12 A Uh-huh.

13 Q You see the vehicle with the license plate go towards
14 the city?

15 A Yes.

16 Q You then turn back around and come back towards the
17 sheriff's office?

18 A That's right.

19 Q And then a sheriff's officer tells you to turn back
20 around onto the side of the street. And that's where you
21 give your statement?

22 A Correct.

23 Q To Officer Kelby Allen?

24 A Yes.

25 Q Okay. And, again, it was a Lexus. Do you remember

1 what type of car it was? Do you remember if you wrote
2 that down to the officer?

3 A No, no description.

4 Q Okay. But with the tag of GDF 329?

5 A Correct.

6 MR. HUNTER: Please answer any questions Mr. Thompson
7 may have.

8 MR. THOMPSON: May it please the Court.

9 CROSS-EXAMINATION

10 BY MR. THOMPSON:

11 Q Ms. Herring, you guys are coming down Howard Street.
12 And you had left a birthday party, or were going to a
13 party?

14 A We were just chilling. I was, actually, taking my
15 friend home.

16 Q Okay. And where was the -- where's the train --
17 where was the train that caused you to take Howard Street?

18 A The train is, like, on Haynes Street, like, the
19 street backwards, like, you have to come around to get
20 around.

21 Q Okay. So kind of back toward the fairground?

22 A No.

23 Q In that area?

24 A Yeah.

25 Q Okay. So coming from there coming down -- and you

1 said you went by and you said you saw people running
2 everywhere?

3 A Everywhere.

4 Q And how many people would you say were out there?

5 A Maybe 15, 20, if not more.

6 Q Okay. And when you say they were running everywhere,
7 were they running in separate directions or --

8 A Yeah.

9 Q Okay. Now, when these people were running, you
10 didn't see any gunfire, or anything like that?

11 A Not to my recollection.

12 Q Okay. So when you go by, there's a body there and
13 there's someone -- how close is the guy with the cell
14 phone to -- to that body?

15 A He was a good ways down the street at that point.

16 Q The guy -- the one you said -- in your statement, you
17 say it looks like somebody is calling 911?

18 A Oh, those two guys, they were fairly close to him.

19 Q There were two guys close to him?

20 A Yes.

21 Q Okay. And were they, like, standing over him or --

22 A They were.

23 Q Okay. So -- and you said you didn't see anybody
24 trying to help him?

25 A No. They were just looking at the man.

1 Q Okay. And do you recall if that man was lying on his
2 back, or his stomach, or side?

3 A He was to his side.

4 Q On his side?

5 A Yes.

6 Q Okay. And did you ever see anybody -- how fast did
7 you go past the body?

8 A Not very.

9 Q Okay. And do you recall what time it was?

10 A It was pretty late.

11 Q Okay. You don't know?

12 A Maybe around 1:00.

13 Q Okay. And you said you think two or three people got
14 into that Lexus?

15 A Yes, two for sure.

16 Q Two for sure?

17 A Yes.

18 Q All right. And then the -- you said one person was
19 on the phone?

20 A Correct.

21 Q But you don't know who they were talking to?

22 A (Witness shook her head.)

23 Q And you didn't recognize anybody that got in that
24 Lexus?

25 A It was dark.

1 Q Okay. And do you recall indicating whether it was a
2 male or a female driving?

3 A No, sir.

4 Q Okay. So you said the car meets a guy walking down
5 the street?

6 A Yes, sir.

7 Q So these guys that got in the car were walking?

8 A Yeah. They were walking down the street. But the
9 car was already there.

10 Q Okay. So the -- basically, it looks like maybe the
11 liquor house party has broke up, and everybody is
12 scattering. Would that be a good way -- I mean, to
13 describe the scene?

14 A I assume.

15 Q Okay. Now, the folks that got in the car were
16 walking; correct?

17 A Correct.

18 Q And how far from [REDACTED] were they?

19 A It's a gas station right down the road. So it's a
20 good -- it's, like, a maybe three, four-minute walk, run,
21 whatever.

22 Q It's on past Oakview then?

23 A I'm not sure what Oakview is.

24 Q Okay. The gas station is the one with those
25 bicycles; correct?

1 A It's across the street from the car dealership.

2 Q Okay. So it's on -- maybe a half a mile away then?

3 A Maybe not that far.

4 Q So it's on -- so you're on past -- why did you turn
5 around?

6 A Because I wanted to give what I saw to the policemen.

7 Q Okay. So did you -- but the policemen weren't on the
8 scene the first time you went by; right?

9 A No.

10 Q All right. So the second time you go by, the
11 policemen are on the scene; correct?

12 A Correct.

13 Q Well, why -- why did you go on past [REDACTED]

14 A Because I had to -- to get back.

15 Q Get back to?

16 A I had to, like, come back around. Like, when I went
17 down, I had to drive back up the street. And when I drove
18 back up, they told me to pull over back to this side
19 facing back towards the city.

20 Q How far past the crime -- the guy's body did you get
21 when they told you to turn around?

22 A Repeat, please.

23 Q You went back by the body; correct?

24 A I just passed the body one time.

25 Q Okay. So you didn't make it back to the body the

1 second time?

2 A Like, I went past, came back. And they told me to
3 pull over to the side. That's it.

4 Q Okay. But did you pass the driveway where the body
5 was the second time?

6 A I assume.

7 Q You think you did?

8 A Yeah.

9 Q So you went past that driveway?

10 A Yeah.

11 Q How far did you get down the road before the officer
12 made you turn around?

13 A Nobody made me turn around. I turned around.

14 Q Okay. How far from the driveway where the body was?

15 A That was a distance. I couldn't see him anymore.

16 MR. THOMPSON: I have no further questions.

17 REDIRECT EXAMINATION

18 BY MR. HUNTER:

19 Q Did you have anything to tell the police until you
20 saw somebody getting into that car?

21 A No.

22 MR. HUNTER: Okay. No further questions, Your Honor.

23 THE COURT: You may step down.

24 MR. HUNTER: Your Honor, may Ms. Moore-Herring be
25 excused?

1 THE COURT: She may be.

2 MS. MABBS: The State calls Matt Hutchins.

3 WHEREUPON,

4 MATT HUTCHINS,

5 after first having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. MABBS:

8 Q Mr. Hutchins, can you, please, introduce yourself to
9 the jury?

10 A My name is Matt Hutchins.

11 Q And where do you work, Mr. Hutchins?

12 A I work as a corporate investigator for a major
13 corporation in Spartanburg County at this time.

14 Q And where were you working back in 2015?

15 A I was the lieutenant of the criminal investigation
16 division for the Spartanburg County Sheriff's Office.

17 Q How long were you with the sheriff's office?

18 A I was with the sheriff's office 14 years. I was in
19 law enforcement 18 years.

20 Q And what were some of your duties as a lieutenant
21 when you were at the sheriff's office?

22 A I was the supervisor over all of the criminal
23 investigation division. That includes violent crimes, sex
24 crimes, property crimes, white collar crimes, and the
25 forensic unit.

1 So if we had an incident such as a homicide, I would
2 respond out to make sure the sergeants of the violent
3 crime unit and the investigators, if they needed anything,
4 then I was there on the scene to assist them.

5 Q And did you respond to a call on July 25th, 2015?

6 A I did.

7 Q Okay. And can you tell us a little bit about that
8 call?

9 A I responded in reference to a homicide on Howard
10 Street in reference to the deceased was found lying in --
11 in the roadway.

12 Q And what did you do while you were at the scene?

13 A At the scene, I got briefed by the sergeant of the
14 unit as to what they had at the time, assisted them in any
15 way possible. And then, at the time, Sergeant Gary
16 informed me that a witness had got a tag number off of a
17 vehicle that they had seen somebody jump in -- or getting
18 into.

19 So I went back to the office to run that tag number
20 and see what -- if it ends up being a lead.

21 Q And what do you do when you run a tag number?

22 A You run it through NCIC. It comes back with
23 registration -- the registered owner, their name, their
24 address, the make of the vehicle, and the identifiers of
25 the vehicle.

1 Q And what's NCIC?

2 A It's the National Crimes Data Base. It's where it'll
3 tell you if it's stolen, if -- you can run names, see if
4 anybody is wanted. You can -- it's -- it's a tool that's
5 used in law enforcement across the U.S.

6 Q So that's just a regular procedure y'all used --

7 A Just a regular procedure.

8 Q -- for getting tag numbers?

9 And did you have an opportunity to run this tag
10 number?

11 A I did.

12 Q And what -- what did -- what happened when you ran
13 that tag number?

14 A That tag came back to a Mercury. Sergeant Gary had
15 told me that the witness had stated it was a Lexus. So,
16 typically, the tags that were on vehicles, at this time,
17 were a white-silver color with orange and then blue at the
18 bottom. The lettering was in blue. And, typically, it
19 was very common that letters such as I's could be mistaken
20 for T's, F's for E's. The -- it was hard to see the
21 bottom character -- the bottom line due to the blue.

22 So if we got a tag and it wouldn't match such as a D,
23 a Q, an I, a T, an F, an E, then we would switch those
24 common characters to see if -- if maybe it was off by one
25 digit.

1 Q And did you do that in this case?

2 A I did.

3 Q And what -- what were the results at that point?

4 A So the tag number that was given was GDF 329. So
5 changing the combination, the D to a Q, because the Q has
6 a small little -- almost like a dash at the bottom and
7 could very easily be mistaken for a D. I got that tag
8 number to come back to a Lexus.

9 Q And that was the description that was, initially,
10 given about that vehicle?

11 A It was.

12 Q And do you recall who that vehicle came back as
13 belonging to?

14 A It came back to a Chandra Underwood.

15 Q And what did you do with this tag information once
16 you found that match?

17 A I relayed it to Investigator Gary.

18 Q Okay. And why -- why'd you give it to him?

19 A Investigator Gary was the -- was the lead
20 investigator, at the time, on the case. And -- and he
21 would be the case agent.

22 MS. MABBS: Please answer any questions Mr. Thompson
23 may have.

24 THE WITNESS: Okay.

25 MR. THOMPSON: May it please the Court, Your Honor.

CROSS-EXAMINATION

BY MR. THOMPSON:

Q Mr. Hutchins, did you have a body camera on that evening?

A No, sir.

Q You didn't. Okay. Do you recall doing a report that evening?

A I do.

Q Okay. And --

MR. THOMPSON: If I may approach the witness, Your Honor.

BY MR. THOMPSON:

Q I'll just show you this. Do you recall, at some point, there was some blood located on the stairs of the -- of the home?

THE COURT: Don't stand between the jury and the witness.

MR. THOMPSON: Sorry.

THE WITNESS: Can you give me just a second? I just want to make sure this is the same report I've got a copy of.

Yes, sir. I recall that.

BY MR. THOMPSON:

Q All right. And do you recall indicating that the blood went from the -- it appeared to go from that bottom

1 step out into the yard?

2 A My report reads that, I observed blood on the bottom
3 step of the residence and a trail of blood leading to the
4 driveway.

5 Q Okay. And do you, also, recall putting in your
6 report that someone identified the shooter as Little Man?

7 A I do.

8 Q And that was on the scene when you received that
9 information?

10 A Yeah. Investigator Clark, actually, advised me that
11 he was informed by one of the victims that one of the
12 shooters was -- went by the street name of Little Man.

13 Q Okay. And do you know who that -- do you know the
14 last name of that individual?

15 A Of Little Man?

16 Q Yes, sir.

17 A Checking through data bases that we had of nicknames
18 between the county and the city, Little Man showed to be a
19 street name that was used by Felshunti Clark.

20 Q Okay. Felshunti Daquan Clark?

21 A Yes.

22 Q Okay. And so you received that information on the
23 scene. When you got there, the body was still in the
24 driveway?

25 A Yeah. It was -- it was more so in the roadway, but,

1 yes.

2 Q Okay. And do you recall what time you arrived?

3 A I do not. That would be on the CAD system.

4 Q Did you -- did you have any further -- anything
5 further you did in this case other than the fact that
6 once -- you passed that information on to Investigator
7 Gary?

8 A Everything is captured in my report. The only other
9 thing that I did was create a photo lineup that contained
10 the image of Felshunti Clark and gave it to Investigator
11 Gary.

12 Q Okay. And did you physically observe that blood, or
13 were you told that there was blood there?

14 A No. I physically observed that.

15 MR. THOMPSON: I have no further questions.

16 REDIRECT EXAMINATION

17 BY MS. MABBS:

18 Q Mr. Hutchins, I noticed earlier when Mr. Thompson was
19 questioning you about the name that you were given, was it
20 for the shooter or one of the shooters?

21 A One of the shooters.

22 Q So, to your knowledge, there were multiple -- reports
23 of multiple shooters at that scene?

24 A To my knowledge, yes.

25 Q And, Mr. Hutchins, was your -- one of your duties at

1 the scene to collect any evidence like blood?

2 A No, sir -- no, ma'am. Sorry.

3 Q And whose responsibility would that have --

4 A That would be our forensics unit. They collect all
5 the evidence on the scene.

6 Q So your role, I guess, is more of a logistical.
7 Would that be a fair description?

8 A It's a supervisory role, yes.

9 MS. MABBS: No further questions, Your Honor.

10 THE COURT: You may step down.

11 MS. MABBS: And may Mr. Hutchins be excused, Your
12 Honor?

13 THE COURT: He may be.

14 MS. MABBS: Thank you.

15 MR. HUNTER: Your Honor, at this time, the State
16 calls Lieutenant William Gary.

17 WHEREUPON,

18 WILLIAM GARY,

19 after first having been duly sworn, testified as follows:

20 THE CLERK: Thank you, sir.

21 DIRECT EXAMINATION

22 BY MR. HUNTER:

23 Q Will you, please, state your full name?

24 A William Gary.

25 Q All right. And how are you employed?

1 A Currently, I'm a lieutenant over investigations at
2 the sheriff's office.

3 Q Did you take over that position once Mr. Hutchins
4 left for BMW?

5 A I did.

6 Q Okay. So, basically, his description of your job
7 duties, that's what you do now?

8 A Yes.

9 Q On July 25th, 2015, how were you employed?

10 A At the time, I was employed as an investigator with
11 the sheriff's office assigned to the violent crimes
12 division, which encompasses about anything from harassment
13 up to homicides.

14 Q Okay. How long have you been with the sheriff's
15 office?

16 A 22 and a half years and one day.

17 Q All right. One day. Who -- how long have you been
18 in investigations?

19 A 18 years of that.

20 Q 18 years of that. And, obviously, you're the lead
21 investigator on this case. So you remember this case
22 quite well?

23 A I was [sic].

24 Q All right. I'm going to jump forward a little bit
25 because Mr. Hutchins just spoke about Chandra Underwood.

1 A Correct.

2 Q Did you receive a tag number from Mr. Hutchins?

3 A Yes.

4 Q And who was that registered to?

5 A Chandra Underwood.

6 Q Were you able to speak to Ms. Underwood?

7 A Yes.

8 Q What did you learn about that vehicle?

9 A This vehicle is registered to her, but her daughter
10 is the driver of that vehicle.

11 Q And when -- when did you go speak with Ms. Underwood?

12 A If I remember right, it was July the 7th -- I'm
13 sorry. August the 7th -- I'm sorry. August the 5th.

14 Q All right. You spoke to her on August the 5th?

15 A I did.

16 Q Did you have a chance to speak with her daughter?

17 A Yes, on August the 6th, the next day.

18 Q What was her daughter's name?

19 A Brianna Woodruff.

20 Q Okay. And where did you speak to Ms. Underwood and
21 Ms. Woodruff at?

22 A At their residence at [REDACTED].

23 Q Okay. Now, is that off Southport?

24 A It is.

25 Q Okay. When you went back on August 6th to speak with

1 Ms. Woodruff, was Ms. Underwood home?

2 A No, she was not.

3 Q Okay. Who was with you?

4 A Investigator Paul Norris -- well, now, Sergeant Paul
5 Norris.

6 Q Okay. And when you spoke to Ms. Woodruff, did she,
7 originally, give you a statement?

8 A Yes.

9 Q Okay. When you read that statement, what did you
10 realize?

11 A From the original statement, it appeared that she was
12 minimizing involvement there, based on what the witnesses
13 had said with the vehicle and people getting in the
14 vehicle. The original statement just puts her going to
15 the area to the liquor house by herself and not -- no one
16 leaving with her.

17 And so I asked her about that, you know. I told her
18 we had witnesses that put people getting in the vehicle
19 with her when she's leaving. So she provided the second
20 statement at that point.

21 Q In that second statement, who does she name as the
22 person who got in the vehicle with her?

23 A Holmes Simpson-Davis.

24 Q And who does she identify as the person who came with
25 her to that location in the first place?

- 1 A Holmes Simpson-Davis.
- 2 Q Okay. At any time, did you threaten her?
- 3 A No, sir.
- 4 Q Did you coerce her?
- 5 A No, sir.
- 6 Q Did you ever threaten her with any time in jail?
- 7 A No, sir.
- 8 Q Was she ever a suspect in this case?
- 9 A No, she was not.
- 10 Q In fact, what was she doing while you were -- while
- 11 this statement was being recorded?
- 12 A She was cooking her lunch, some type of noodle dish.
- 13 Q All right. Let's go back to the night -- or the
- 14 morning of July 25th, 2015. Have you been able to review
- 15 your case file?
- 16 A Yes, sir.
- 17 Q The entire completed case file?
- 18 A Yes, sir.
- 19 Q Approximately what time did the first call come into
- 20 911?
- 21 A 1:33 a.m.
- 22 Q All right. And we heard from Deputy Shehan that he
- 23 arrived at 1:35 a.m.?
- 24 A That sounds correct.
- 25 Q Okay. When -- approximately when did you arrive at

1 the scene?

2 A It wouldn't be too long after that. At the time,
3 when we were on call, the way we were doing, at the time,
4 is there was two of us on call for anything that happened.
5 And, at that time, we worked, basically, a second shift
6 schedule. We'd work from 5:00 in the evening until 2:00
7 in the morning.

8 So I was, actually, out working, instead of being at
9 home getting called in for it. So I probably got there
10 within 10 minutes of the incident occurring.

11 Q All right. And we, actually, see you on some of the
12 videos that we've seen today; right?

13 A I'm sure.

14 Q You're about the same stature as you were back then?

15 A Unfortunately.

16 Q When you first get to the scene, what do you do?

17 A I get briefed by some of the patrol officers what --
18 what's going on. The first thing I did was I went inside
19 the house, because there was some potential witnesses
20 inside the residence where this occurred.

21 Q Were those witnesses the Geter sisters that spoke --

22 A Yes, they were.

23 Q Okay. After speaking with them, what did you do?

24 A I came out of the -- out of the house. I ended up
25 talking to a guy who was living at the -- the house that's

1 been referred to as the liquor house. I talked to him
2 about what he might have seen, what could have lead up to
3 it, whatever.

4 Q We've heard talk about canvassing the scene. Now,
5 since you're the lead investigator, did you and your
6 investigators canvas the entire scene?

7 A We did. In doing that, you're looking for anyone who
8 may have seen something that's willing to cooperate and
9 tell you something. And, at the same time, you're looking
10 at the area for potential evidence. Because crime scenes
11 are 360. They're -- they're not just right there. They
12 can be in the ceiling if it's inside a house, whatever, on
13 top of a house. You could have stuff everywhere.

14 So, at the same time, you're looking for witnesses,
15 you're, also, paying attention to your environment to see
16 if you see potential evidence around.

17 Q Okay.

18 A Especially with a shooting, because bullets can go a
19 lot of places.

20 Q In this case, what would you say about the
21 cooperation of everybody on the scene?

22 A The ones that were still on the scene, a lot of them,
23 you know, seemed to tell what -- seen [sic] what they
24 could tell us, you know. I forget his name, the gentleman
25 at the -- next door at the liquor house. He, actually,

1 gave us more than I probably would have expected
2 considering what goes on there. But he said he, also,
3 didn't see the actual shooting that occurred.

4 The victims, Mr. Brewton and Mr. Kilgore, were mad.
5 In talking with them, they weren't the most cooperative to
6 begin with. We did get names -- I did get some names
7 from -- I forget which one it was now at the hospital.

8 Q Is that from Mr. Kilgore?

9 A I believe -- yes, sir, it was. And you could tell
10 from them they were pissed off that it happened. And from
11 statements they're making, it's like they want to try to
12 handle this themselves at the time.

13 Q So after you talked to Willie Johnson, who is the
14 resident over at [REDACTED] at the liquor house, where --

15 A Yes, sir.

16 Q -- do you go from there?

17 A (There was no response.)

18 Q Did you go to the hospital?

19 A I think that's -- right after -- not long after that
20 is when I went to the hospital, and speaking with them.
21 At that point, Lieutenant Hutchins, at the time, had
22 prepared a lineup for Mr. Clark. So we went in there.

23 Mr. Kilgore, actually, gave -- as he said it on the
24 stand, he said it the same way that day. He said
25 Fashunti [phonetic] Clark, instead of Felshunti Clark. So

1 he gave that name again, as well as giving Holmes
2 Simpson-Davis as the -- as the shooter he saw shoot
3 Mr. Hull.

4 Q All right. So he told you in the hospital that it
5 was the Defendant that shot Mr. Hull?

6 A Yes.

7 Q Not Felshunti Clark?

8 A Correct.

9 Q But that Felshunti Clark was there and a big part of
10 it?

11 A Right. He -- he was telling the story about the
12 disagreement, the disturbance that happened at the liquor
13 house between them. And that he had left and had came
14 back with a crowd that included Mr. Holmes Simpson-Davis.

15 Q And after speaking with them at the hospital, did you
16 perform interviews with Mr. Kilgore and Mr. Brewton?

17 A Yes, sir. Mr. Kilgore came to the office. He was
18 not far from being discharged. And in a hospital
19 environment, especially an emergency room, it can be tough
20 to get a full interview in with somebody. Because you
21 don't want to interrupt the medical care. Plus, with them
22 in and out, it can break it up.

23 So I asked him to come to the office as soon as he
24 left the hospital, which he did.

25 Q Would you agree that Mr. Kilgore's wound was not as

1 bad as Mr. Brewton's?

2 A Correct.

3 Q Okay. So he comes to the sheriff's office and you
4 take the statement, which we've heard?

5 A You've heard part of it.

6 Q Part of it as well. Do you remember him telling you
7 that he shot anybody?

8 A No, he did not.

9 Q Okay. That statement that we heard is -- obviously,
10 that was part of the interview?

11 A Right.

12 Q And from your understanding, if he had said he had
13 shot somebody, what would you have done?

14 A It would have changed the scope of the interview. At
15 that point, he would have been read his rights. Because
16 he may potentially be getting ready to tell me something
17 that could lead to him catching a charge.

18 In hearing the interview and being present for it,
19 you know, he says, I was in shock. That's what he says.
20 That's the way I understood it for him to say it. When I
21 hear it again, that's what I hear.. Because I'm there
22 during that recording.

23 Q At some point, did Mr. Clark come to the sheriff's
24 office?

25 A Yes.

1 Q Felshunti Clark?

\ 2 A He did.

3 Q Okay. Was he arrested?

4 A He was.

5 Q Did you have a search warrant for his phone?

' 6 A Well, I seized the phone. I did a search warrant
7 later.

8 Q Okay. But you seized his phone at the time that he
9 was arrested?

10 A Yes.

11 Q And did a search warrant on that phone?

12 A I did.

13 Q And that's the phone that Investigator Rainey from
14 the Greenville County Sheriff's Office spoke about earlier
15 in the trial?

16 A Yes. I had to take it to Greenville because our
17 examiner, at the time, was on vacation, or doing
18 something. So in order to try to expedite it, I was able
19 to make arrangements for Greenville to be the examiners.

20 Q I'll show you what's been pre-marked as State's
21 Exhibit -- or what's entered into evidence as State's
22 Exhibit Nos. 16 and 17. Did you receive this report back
23 from Investigator Rainey?

24 A Yes. This is the portion of the exam -- the report
25 that's generated from the exam on a cell phone.

1 Q All right. The report that's -- that's generated is
2 a very large report?

3 A It's huge. Cell phones are small computers. And
4 they hold -- depending on the phone, it holds a lot of
5 data. So when you do these exams, you can't say, okay,
6 I'm just going to pull this portion of it. You have to
7 pull everything, bit, and byte, and everything off of the
8 phone. Then the report's created. And then from there,
9 you can go and look at certain specific things such as...

10 Q Okay. Now, on those phone calls, there appear to be
11 three deleted phone calls, two outgoing and one incoming;
12 is that correct?

13 A Yes, sir.

14 Q All right. And what number is associated -- so,
15 again, this is the cell phone of Felshunti Clark. What
16 phone number is associated with those deleted calls?

17 A For the two outgoing calls and the one incoming call
18 that were deleted, which are the only calls on the log
19 deleted, is area code 864, 553-3693.

20 Q Have you heard that number before?

21 A Yes.

22 Q Okay. And did you receive that number from an
23 authorized source?

24 A I did.

25 Q And whose number was that?

1 A When I received the number, it was to confirm that it
2 belonged to Holmes Simpson-Davis.

3 MR. HUNTER: Your Honor, at this time, the State
4 would like to put a stipulation before the jury that the
5 State and the Defense stipulate that that was Mr. Holmes
6 Simpson-Davis' number at the time on July 25th, 2015.

7 MR. THOMPSON: No objection.

8 THE COURT: All right. Ladies and gentlemen, for
9 your benefit in case you don't know, a stipulation is an
10 agreement as to a fact without further proof being
11 necessary. And, in this case, both the State and the
12 Defense agree that the number as stated by the witness was
13 the telephone number assigned to the Defendant in this
14 case.

15 BY MR. HUNTER:

16 Q And, in fact, in speaking with the person that gave
17 you Mr. Simpson-Davis' number, that person had spoken to
18 Mr. Simpson-Davis on July 24th at that number; is that
19 correct?

20 A That's correct.

21 Q Okay. Can you, please, tell me what time those calls
22 happened?

23 A On the outgoing calls -- let's see. The first
24 outgoing call was at 5:12 a.m. UTC, which Uniform Time
25 Code is your standardized form in the eastern United

1 States. We are normally UTC minus five. However, during
2 daylight savings time, we are UTC minus four. And, at
3 this time in July, we were, obviously, in daylight savings
4 time.

5 So when you convert that, it would be 1:12 a.m. and
6 five seconds. And then the second one was at 1:12 a.m.
7 and 51 seconds. The incoming phone call from that number
8 to Mr. Clark's phone was -- in converting the time was at
9 1:17 and 31 seconds. And it lasted a minute and
10 26 seconds.

11 Q Now, after receiving this information -- and you've
12 already interviewed Mr. Kilgore?

13 A Correct.

14 Q Do you then interview Mr. Brewton?

15 A Yes.

16 Q And what date does that happen?

17 A On 7/28/2015.

18 Q Okay. So the interview with Mr. Kilgore happened the
19 morning of the shooting?

20 A Correct.

21 Q That -- that recording that we heard?

22 A With -- well, within hours. I forget what time it
23 was that he was there. But as soon as he left the
24 hospital within probably 20 minutes, he was at the
25 sheriff's office.

1 Q Okay. So then on July 28th, you did an interview
2 with Mr. Brewton?

3 A Yes.

4 Q Did Mr. Brewton give, generally, the same story?

5 A He did.

6 Q I'm going to show you what's pre-marked as State's
7 Exhibit No. 51. Do you recognize that item?

8 A I do.

9 Q How do you recognize that item?

10 A It's a -- I recognize it with my initials and the
11 date on here from when I reviewed the contents of it.

12 Q Okay. And what are the contents of it?

13 A It's four phone calls that were recorded from our --
14 the Global-Tel system from our jail that are outgoing
15 calls.

16 Q Have you ever -- have you been able to listen to all
17 four of those phone calls?

18 A Yes.

19 Q Okay. During your time with this investigation, as
20 well as any other time, have you had the chance to speak
21 with Mr. Holmes Simpson-Davis?

22 A I have.

23 Q Do you know his voice?

24 A I do.

25 Q Okay. And that's multiple times talking to him; is

1 that correct?

2 A Correct.

3 Q You've, also, had a chance to speak with Ms. Brianna
4 Woodruff?

5 A Yes.

6 Q Is that correct?

7 A Yes.

8 Q Multiple times?

9 A Yes.

10 Q All right. And you've had the chance to know her
11 voice?

12 A Yes.

13 Q All right. And who are the two voices -- well, I
14 guess there's, actually, three voices on the -- four
15 voices. There's two inmates voices and two other voices.
16 Have you had a chance to talk to the other inmates to
17 understand their voices?

18 A The one --

19 Q Adrian Chambers, do you know him?

20 A Right. The one voice which the account that was used
21 to make the phone calls, I've, actually, talked to him
22 multiple times in the past.

23 Q And then there's an Austin Hefner. When we hear the
24 voice of Austin Hefner, that's not Mr. Holmes
25 Simpson-Davis?

1 A It's not.

2 Q Okay.

3 A It's not the same voice.

4 Q However, the actual participants speaking on the
5 phone calls, who are they?

6 A It's Holmes Simpson-Davis and Brianna Woodruff in the
7 conversations.

8 Q And when do these phone calls occur? What event
9 happened prior to these phone calls being recorded?

10 A Brianna Woodruff was served with a subpoena by myself
11 before this trial. And in doing so --

12 MR. THOMPSON: I object, Your Honor. If we could
13 approach.

14 (WHEREUPON, a bench conference was held.)

15 BY MR. HUNTER:

16 Q What event preceded these phone calls?

17 A The process of trying to serve a subpoena for this
18 case for this trial -- I'd gone to her address on
19 Carnahan. And I, actually, spoke to her mother on the
20 phone. I then went to her job to try to locate her there
21 to get her served with a subpoena. She was not at work at
22 the time.

23 So they provided me with her phone. I, actually,
24 made a call to her and met with her at the Bojangles' on
25 Asheville Highway and served her with the subpoena. And

1 these calls happened after that service.

2 MR. HUNTER: Your Honor, at this time, the State
3 would offer State's Exhibit No. 51 into evidence.

4 MR. THOMPSON: No objection.

5 THE COURT: It's admitted.

6 (WHEREUPON, State's Exhibit No. 51 was admitted into
7 evidence.)

8 BY MR. HUNTER:

9 Q All right. I'm going to show you, also, State's
10 Exhibit No. 58. Do you see there's a phone number on that
11 CD?

12 A Yes.

13 Q Can you, please, state what that phone number is?

14 A 864-345-0379.

15 Q And is that the number you were provided for
16 Ms. Woodruff?

17 A Yes, it is.

18 Q Is that the number that you spoke to Ms. Woodruff on?

19 A It is.

20 Q Okay. Did you attempt to listen to jail phone calls
21 assigned to Mr. Holmes Simpson-Davis?

22 A I did. There's -- with the Global-Tel system,
23 there's different ways that you can look up phone calls to
24 listen to them. You can look it up by the number -- the
25 pin number that's assigned to them, which, essentially, is

1 their booking number in our system. You can, also, listen
2 to just the station during the time frame. But you can,
3 also, search the destination of what number they're
4 calling from there.

5 So I was able to put that phone number into the
6 system. I was looking under his name. It wasn't really
7 showing any calls. When I put that number in, it came up
8 with two other names -- account numbers and different
9 phone calls to that number, which just means that the
10 person was using that person's pin number to make these
11 phone calls.

12 Q All right. So the four phone calls are from Holmes
13 Simpson-Davis to Ms. Woodruff?

14 A They are.

15 Q However, he used someone else's account?

16 A Yes.

17 MR. HUNTER: Your Honor, permission to publish the
18 phone calls.

19 THE COURT: You may.

20 BY MR. HUNTER:

21 Q Who else was with you when you served Ms. Woodruff
22 with her subpoena?

23 A You were.

24 Q Okay. Both at her house when we attempted to, as
25 well as at Bojangles'?

1 A Yes.

2 Q That's the Bojangles' on Asheville Highway?

3 A It is.

4 (WHEREUPON, a portion of State's Exhibit No. 51 was
5 played in open court.)

6 BY MR. HUNTER:

7 Q That was the first phone call?

8 A Yes.

9 Q The first voice we hear, who's voice is that?

10 A Adrian Chambers.

11 Q Okay. So that's not Holmes Simpson-Davis' account?

12 A No.

13 Q However, who's the first male voice we hear talking
14 to the female?

15 A It's Holmes Simpson-Davis.

16 Q And who is the female?

17 A Brianna Woodruff.

18 MR. HUNTER: We'll listen to track two.

19 (WHEREUPON, State's Exhibit No. 51 continued to be
20 played in open court.)

21 MR. HUNTER: We'll go on to track three.

22 (WHEREUPON, State's Exhibit No. 51 continued to be
23 played in open court.)

24 BY MR. HUNTER:

25 Q Before we play the last and fourth one, I want to go

1 back to that second one. She talks about getting a video.
2 When we went to the house, what was on the door?

3 A It had one of those door bells that has a camera
4 built into it. So I guess an app on your phone, or
5 whatever, so you can see who's at your door before you go.
6 We -- because we discussed it being there. Because there
7 was, also, surveillance cameras above the garage and all
8 that as well.

9 Q Okay. She, also, talks about papers being stapled
10 together --

11 A Yes.

12 Q -- the subpoenas. Why -- why are there papers
13 stapled together?

14 A When you have a subpoena, normally, you have two
15 copies of the same thing. And on the back of both copies
16 is the affidavit of service. So you pull that apart and
17 give them one. And then you fill out the affidavit on the
18 back of it.

19 Q And is that what you did in this case?

20 A It is.

21 Q Okay. Now, we heard from Mr. Davis that you
22 threatened her with one to three years. Did that ever
23 happen?

24 A It never happened.

25 Q Did you ever threaten her?

1 A No.

2 Q In fact, did I even barely talk when y'all -- when we
3 met?

4 A Right. It was mostly me talking asking her some
5 questions and -- about her statement that she had given,
6 and just seeing if she was ready to give any more details.

7 Q And she had given two statements at this point;
8 correct?

9 A Yes, the two written statements.

10 Q And much like Mr. Brewton and Mr. Kilgore, as each
11 statement came along, there was a little more facts put
12 into each statement; is that correct?

13 A Yes.

14 (WHEREUPON, State's Exhibit No. 51 continued to be
15 played in open court.)

16 BY MR. HUNTER:

17 Q So he's telling her to tell us that they weren't
18 together that night; is that correct?

19 A Correct.

20 Q Okay. Earlier in that phone call, she talks about
21 how we asked her to call work. Why -- why did we ask her
22 to call her work?

23 A When -- her mother told -- told me where she worked,
24 so we went there. They told us that she had gone home
25 sick the day before. When they went and checked, they

1 still showed her --

2 MR. THOMPSON: I object to hearsay.

3 THE COURT: Sustained.

4 BY MR. HUNTER:

5 Q Did you hear about in the middle of the phone call
6 when they were speaking about, I haven't seen him with
7 whatever? What were they speaking about?

8 A A gun.

9 Q Okay. Did you hear her say he didn't get into the
10 car with one?

11 A Yes.

12 MR. HUNTER: Please answer any questions Mr. Thompson
13 may have.

14 MR. THOMPSON: May it please the Court.

15 CROSS-EXAMINATION

16 BY MR. THOMPSON:

17 Q And what -- what were you saying about the gun just
18 now? They were talking about a gun?

19 A When we were -- when I was talking to her, again,
20 this time, I was reiterating to her -- asking her about
21 seeing if the gun she saw -- and it's something we do a
22 lot if we think -- feel like a gun could have been thrown
23 out. We try to explain to people, kids find guns. And
24 they -- and so that's one thing we tell them is, you know,
25 if we can find this gun out here before somebody else gets

1 hurt with it, that would be great.

2 Q Then what did she say?

3 A She said that he didn't get in the car with a gun.

4 Q Okay. And she, also, references -- or he references
5 pleading the Fifth; right?

6 A Yes.

7 Q Okay. Now, among other terms in there, plead the
8 Fifth usually means keep your mouth shut; right?

9 A Yes.

10 Q And you guys kept going back at her after she
11 gives -- she gives a statement; correct?

12 A No. We -- all right. The initial day, she writes a
13 statement. And knowing the information from the witnesses
14 that saw people get into her vehicle, I confronted her
15 with that information, based off the first statement, and
16 told her the witnesses had told us they saw people getting
17 in her car. That's when she provided the second statement
18 that she wrote herself. Both statements were written by
19 her.

20 So she wrote that statement. That was back in 2015.
21 I asked her about it again when I served her the
22 subpoena -- about that just trying to get some more
23 information. We're two years removed from this incident.
24 Knowing that they've been talking about the whole --
25 almost the whole two years or so that he's been in there,

1 just to see if she's willing to tell us any more now.

2 So I didn't go back at her. I asked her about it
3 again. I never threatened her with anything. I never
4 threatened her with any time, nothing like that. So I
5 didn't go back at her. I just asked her about it again
6 when I was talking to her. She was in the truck maybe
7 five minutes.

8 Q And you said that -- now, when you took the first
9 statement, it looks like she's -- she provided the first
10 statement at 1:47 p.m. on the 6th of August, 2015;
11 correct?

12 A I'd have to look at it.

13 MR. THOMPSON: May I approach the witness, Your
14 Honor?

15 THE COURT: Yes.

16 THE WITNESS: Yes. I put on here the time that it
17 was reviewed, which was 1:47 p.m. on the 6th.

18 BY MR. THOMPSON:

19 Q Okay. And then prior to her putting that in writing,
20 you -- you were, obviously, at the home for a little while
21 before she ever gave a statement; correct?

22 A For a short amount of time.

23 Q Okay. And then you'll agree with me that she
24 provided this second one at 3:00; correct?

25 A That's when it was completed, 3:00 p.m.

1 Q Okay. So it'd be safe to say that you and Mr. Hunter
2 were at her house, at least, an hour and a half?

3 A No, sir. That would not be safe to say. Mr. Hunter
4 was not with me when I got those statements.

5 Q Okay. Well, you were there for an hour and a half
6 then?

7 A Yes, sir.

8 Q Okay. So -- so what kind of noodles was this that it
9 took an hour and a half for her to make her lunch?

10 A She wasn't cooking the entire time. During the time
11 we were there, we also, went, out to the garage and looked
12 at her vehicle that we knew was on the scene where a
13 shooting took place.

14 So myself and Investigator Norris looked over the car
15 to see if there were any bullet strikes or anything on the
16 car that could be evidence, which she allowed us to go do
17 out in the garage. So --

18 Q Well, let's back up a minute --

19 MR. HUNTER: May he answer the question, Your Honor?

20 THE COURT: Let him finish his answer.

21 MR. THOMPSON: All right.

22 THE WITNESS: So Investigator Norris and I are there
23 for that amount of time to do that. It wasn't Mr. Hunter
24 with me until the day the subpoena was served for that
25 short amount of time that I was with her and talked with

1 her at that point.

2 BY MR. THOMPSON:

3 Q Okay. And let's back up. You said that the car was
4 at the crime scene; correct?

5 A The witnesses saw it, yes.

6 Q The witnesses said they were on past the crime scene
7 when they saw the car. Remember, she said at a service
8 station?

9 A If you've ever shot a gun, you know how far a bullet
10 can travel. So anything that could be in the area, such
11 as the houses across the street, and all that.

12 Well, the store the witness describes it being at is
13 not that far down the road. If you go down [REDACTED]
14 towards the city, when you pass [REDACTED] there's about four
15 roads in between. There's a church. There's an older
16 Cricket that's now called Breakers that's on the left.
17 Charlie Weaver's used cars are across the street. That's
18 the store that she referred to as seeing the car. It's
19 not that far.

20 So it wouldn't be unusual if a gun -- if a shot was
21 fired in that direction, the car potentially could have
22 gotten hit. So it's within the scene. So we took a look
23 at it to see if there could be anything on it, and there
24 wasn't.

25 Q So that's a good quarter of a mile or more down the

1 road past the crime scene?

2 A I didn't measure.

3 Q Okay. You'll agree with me the diagram that was
4 shown yesterday didn't show the store?

5 A No, it doesn't.

6 Q Okay. So let's go back to the questioning I did
7 yesterday. Why -- if there's that many -- there's more
8 shell casings out there than there are bullets; correct?

9 A There's more -- well, for a shell casing to get
10 there, at some point, a bullet -- it had to be a whole
11 bullet. Before a bullet's fired, it's called a bullet.
12 Then you have a shell casing that's left over from a
13 semi-auto or a revolver. It's just a semi-auto ejects it
14 out. A revolver, it stays in the cylinder.

15 The fired bullet is the projectile that comes out of
16 a bullet when it's fired from a gun. There were a lot
17 more shell casings, which is typical on a shooting, that
18 were recovered versus projectiles.

19 Q Okay. And then -- and the officer testified
20 yesterday they didn't go on the other side of the road and
21 check those homes. Under your analysis, they should have
22 went a quarter mile down the road checking homes for
23 bullet fragments?

24 A We had the shell casing that were recovered down the
25 street. When the -- we didn't go that far looking for

1 bullet strikes. Across the street, those houses were
2 checked to see what could be hit. Because what we had was
3 a couple of strikes that appeared could be on the house,
4 one or two on that tree. And that was all we could find
5 as far as strikes go.

6 With the amount of shell casings there, it's kind of
7 surprising to me that there were that few strikes around
8 there. To me, it indicated there weren't that many shots
9 fired at the house in the same direction that the victims,
10 ultimately, were in. I don't know where they were fired.
11 You know, on the outside scene, you cannot always account
12 for every projectile once it's fired out of a gun.

13 Q So you pursued the car, but -- believing it was
14 possibly hit; correct?

15 A Well, we looked at it to see if it was, because it
16 was there. And, at the time the actual shooting took
17 place, we don't know if it was still at the store or not.
18 And, obviously, with her initial statement, she puts
19 herself being at the liquor house when everything
20 happened, you know, but not seeing anything, which that
21 puts her right next door.

22 So based off that -- that -- her statement put it
23 even closer than the witness statements seeing her down
24 the road. So it made sense to look at her car.

25 Q But she never indicated she heard any gun fire or --

1 A She didn't. But with the timing of everything and
2 her -- even those statements, it puts her car in the area
3 at the time the shooting occurred. So we -- doing our
4 diligence, we looked at her car to see if there could be
5 anything on the car.

6 Q But you -- you said you received a phone call -- a
7 911 call at 1:33 to report the shooting; correct?

8 A Yes.

9 Q So that doesn't necessarily mean the shooting
10 occurred at 1:33; right?

11 A The shooting -- based on the 911 calls would have
12 occurred very shortly after, or right around the time
13 with the first 911 call coming in. Because I believe it
14 was -- you know, it was being made before the shooting,
15 actually, occurred. By the time it connected, it had
16 already happened.

17 So with where she was at the time with these phone
18 calls here, it made sense that the car could have been in
19 that area at the time the shooting occurred.

20 Q All right. But you -- I mean, you don't -- you don't
21 have a nailed down time. Around 1:30, the shooting
22 occurs; correct?

23 A Well, the first call was at 1:33. My -- I guess
24 you're asking for my opinion on that. My opinion on when
25 the shooting would have occurred probably would be in the

1 neighborhood of 1:32, 1:32:30, something like that.

2 Because, you know, the 911 call, when you dial that, it's
3 going to start logging it before you almost -- even before
4 the operator picks up the phone. So it's going to be very
5 close to the time that shooting -- the call came in.

6 Q All right. And you said that she -- she told you
7 that she -- nobody got in the car with a gun?

8 A She said she didn't see a gun.

9 Q Okay. And as far as the -- is that Ms. Woodruff?

10 A Yes.

11 Q As far as Ms. Woodruff is concerned, you say that
12 she's in the Lexus. And these witnesses see her by the --
13 near the store down there; correct?

14 A That's what they said, yes, sir.

15 Q Okay. So the time that you got the calls in -- I
16 think Mr. Clark's phone, you said, made two calls?

17 A It made two and received one.

18 Q Right.

19 A Well, that were deleted. There were multiple others.
20 But from Mr. -- to and from Mr. Holmes Simpson-Davis'
21 phone, made two and received one.

22 Q He called at 1:12 and then 1:12:51; correct, so
23 almost 1:13?

24 A Correct.

25 Q And then four minutes later, at 1:17, he gets a

1 return call?

2 A Correct.

3 Q And that call lasts for a minute and 26 --

4 A Yes, sir.

5 Q So that puts us at about 1:18 and 30 seconds, or so?

6 A Yes, sir..

7 Q Is that right?

8 A Yes, sir.

9 Q So for -- I guess your allegation is that Mr. Davis
10 gets a call and comes over to the liquor house; is that
11 correct?

12 A Absolutely.

13 Q Okay. So he's got a real short window here; correct?
14 About 12 minutes?

15 A Well, the great thing is this phone call is to his
16 cell phone. It's not a land line. So when the call is
17 happening, it can be mobile at that time. So you're not
18 stuck in one place. So you can start your path of travel
19 while the phone call is going on.

20 Q But the -- you're right on that. But you wouldn't
21 know any whereabouts of Mr. Holmes [sic]; correct?

22 A Yes, sir, I do.

23 Q And in your analysis, he's with Ms. -- Ms. Woodruff;
24 right?

25 A Yes, sir.

1 Q Okay. Again --

2 A And that's, actually, from her statement as well.

3 Q All right. And -- well -- but as far as the witness
4 goes, other people got in the car, too, maybe even three
5 people?

6 A Potentially, yes, sir.

7 Q Okay. And, according to her, there's people running
8 everywhere?

9 A , Yes, sir.

10 Q Away from the scene?

11 A Trying not to get shot.

12 Q Right. So necessarily -- not necessarily any
13 criminal activity that she's alleging here; right? I
14 mean, she didn't -- she didn't say there was any criminal
15 activity going on?

16 A Who -- who is "she" that we're referring to?

17 Q Ms. Woodruff.

18 A Her statement to me was that Mr. Holmes Simpson-Davis
19 received a phone call, told her he needed a ride. So she
20 brought him up to Howard Street. He gets out of the car
21 and starts walking up the street.

22 Q That was her statement?

23 A That was part of it. I mean, I can continue.

24 Q All right. And what time did you arrive at the
25 scene?

1 A I don't recall. It was -- I don't recall the exact
2 time. It may be on the CAD sheet, if I called out. But
3 it probably would be, at the most, 10 minutes after it --
4 it was dispatched.

5 Q And it's common for you to do a report every time you
6 investigate a -- a scene, a crime scene?

7 A Yes, sir.

8 Q To keep everything in writing. All right. So you
9 spoke to Willie Johnson first; correct?

10 A No. That's not correct.

11 Q I mean, you spoke with --

12 A Anitra and Angela.

13 Q -- Angela and then Anitra; correct?

14 A Correct.

15 Q And they identified the victim of -- of the gunshot
16 to -- to the face; right?

17 A Yes, they did.

18 Q Okay. So then you spoke with Mr. Johnson?

19 A Correct.

20 Q And Mr. Johnson, basically, described a chaotic
21 atmosphere there as well?

22 A He describes a disturbance at his house, commonly
23 referred to as the liquor house. He describes that and
24 then hearing the gunshots. But he says he didn't see the
25 shooting, so.

1 Q Okay. And we already -- from the statement that
2 Ms. Herring gave -- or testified to, there was probably,
3 at least, 20 people out there?

4 A That's probably about right.

5 Q And, at some point, do you recall speaking to
6 Investigator Clark?

7 A I'm sure I did. He was out there.

8 Q Okay. And were you ever provided Little Man's name?

9 MR. HUNTER: Objection, Your Honor. Hearsay.

10 THE COURT: Overruled.

11 THE WITNESS: Yeah. I did get Little Man being
12 Felshunti Clark.

13 BY MR. THOMPSON:

14 Q And that was -- that was while you were on the scene,
15 or later on?

16 A I think it was while I was on the scene.

17 Q Okay.

18 A As a matter of fact, I'm pretty sure it was because
19 that had already been prepared by the time I went to the
20 hospital.

21 Q Right. Mr. Hutchins had made that available to
22 you --

23 A Correct.

24 Q -- when you were at the hospital?

25 A Correct.

1 Q And then do you recall speaking with Mr. Brewton?

2 A I do.

3 Q And Mr. Brewton, did he, also, identify Little Man as
4 one of them?

5 A Let me find my notes.

6 Yes, sir. He said Little Man was one of them.

7 Q Okay. So -- and just for -- for the juries
8 clarification, Mr. Clark is Little Man; correct?

9 A Yes.

10 Q And I believe you said that Kilgore -- Mr. Kilgore
11 was one of -- correct?

12 A Yes, sir.

13 Q He's JJ?

14 A Yes, I guess. I knew him as James Kilgore.

15 Q Mr. Brewton is Little Bruce at some point; right?
16 They call him that?

17 A I know him as Bruce Brewton.

18 Q All right. And then Big Boy is Robert Hull, the
19 victim?

20 A I do know that connection, yes, sir.

21 Q Okay. Now, when you spoke with Mr. Kilgore, he --
22 you said -- you indicated he told you Holmes Simpson-Davis
23 was the --

24 A Well, yes, sir. He was in room 58 in the emergency
25 room.

1 Q He said, "Holmes Davis." He didn't put the Simpson
2 in there; right?

3 A That's what's in my notes, yes, sir.

4 Q Okay.

5 A It's the only Holmes Davis in the system, though, I
6 believe.

7 Q Then do you recall -- we went through with
8 Mr. Kilgore yesterday. But Mr. Brewton provided with you
9 a statement, did he not?

10 A A few days later. He -- his leg was hurt a little
11 worse. So he came in a few days later.

12 Q Okay. You showed him a lineup, however, at the
13 hospital?

14 A I did.

15 Q And he identified Little Man?

16 A Kind of.

17 Q Mr. Clark. Okay. But he -- he refused to sign off
18 on it; right?

19 A Yes, sir.

20 Q And he said he was in fear of retaliation. Is that
21 what he --

22 A Yeah. He said he was scared for his family. But
23 working a number of these incidents, you can tell there's,
24 also, some attitude there. The -- you know, he's
25 contemplating taking care of this himself. Luckily, he

1 didn't.

2 Q And at the bottom of that paragraph there, did you
3 not tell him to come see you later that day?

4 A I told him I would meet with him at the sheriff's
5 office later that day.

6 Q Okay. But he didn't come in until the 28th; right?

7 A Yes, sir. That's when we were able to make it work.

8 Q All right. So there's the 25th, 26th, 27th, and the
9 28th, four days later, he comes in. And you interviewed
10 him then. And just like Mr. Kilgore, you recorded it
11 and -- and it was subject to a transcriber; right?

12 A Yes.

13 Q And Mr. Brewton indicated he was parked across the
14 road, according to your report; right?

15 A Yes, sir.

16 Q And do you recall he -- he -- who he said he -- was
17 in his car with him?

18 MR. HUNTER: Objection, Your Honor.

19 THE COURT: Was it Mr. Brewton's statement?

20 MR. HUNTER: Yes.

21 THE COURT: Overruled.

22 THE WITNESS: I didn't put down in my report that I
23 have up here who he said was in his vehicle. Maybe in the
24 transcription -- because with it being recorded, I didn't
25 take complete notes of the interview. Because I know it's

1 being recorded.

2 BY MR. THOMPSON:

3 Q Right.

4 MR. THOMPSON: If I may approach, Your Honor.

5 BY MR. THOMPSON:

6 Q I'll show you the transcript, Mr. Gary. You asked
7 him --

8 MR. HUNTER: I object to this. Mr. Gary did not,
9 actually, do these transcripts. They've not been
10 authenticated.

11 THE COURT: If they're not in evidence, then they're
12 not admissible. And they're not to be used.

13 Is this something he prepared?

14 MR. THOMPSON: Something I received in discovery.
15 And I'm just --

16 THE COURT: Is it something Mr. Gary prepared?

17 MR. THOMPSON: I'm not sure.

18 THE COURT: Let me see it.

19 (WHEREUPON, a bench conference was held.)

20 THE COURT: Overruled.

21 BY MR. THOMPSON:

22 Q And do you recall you asked him who got -- do you
23 remember he pulled over to the liquor house from his
24 uncle's house. He was parked across Howard Street. Do
25 you recall that?

1 A I don't recall him saying he pulled over to the
2 liquor house. I recall him saying they were parked across
3 the street while they were there. Then when they left,
4 they pulled -- it's almost, essentially, across the
5 street, but a little bit to the left where they were
6 parked to [REDACTED] where this occurred. I don't
7 remember him saying they pulled to the --

8 Q That's my mistake. It wasn't the liquor house. It
9 was [REDACTED] beside the liquor house. And he indicated that
10 he, and Red, and JJ were the ones that were in the car;
11 right?

12 A That -- that sounds right, yeah. That night -- or
13 that day, that's -- that's the -- yeah. The three people
14 he said that night were in the car.

15 Q So -- and Red is Mr. Young?

16 A Yes.

17 Q And he's not here?

18 A Correct.

19 Q And you learned later on that there was a fourth
20 person in the car; correct?

21 A Yes.

22 Q That would be Christopher Brannon?

23 A Yes.

24 Q And do you recall taking a -- or interviewing him
25 at -- in the jail?

1 A I do.

2 Q Okay. And do you recall this information was made
3 available -- you learned of this in January of '17;
4 correct?

5 A Actually, I was given his name not long after this
6 incident, probably within a few weeks, a month, something
7 like that. I attempted to make contact with him. And I
8 wasn't able -- I was not able to do that.

9 So then I found out he was in jail. So it's easy to
10 make contact when they can't leave. So I went to the jail
11 to interview him in January of this year to see what he
12 might know about this incident.

13 Q All right. So -- but he did put himself on the scene
14 and in the car --

15 A Correct.

16 Q And then, I think, he was present during the
17 shooting?

18 A Let's see. What did he say?

19 By the time the shooting happened, I think he was in
20 the house, I think, is what he said. He says at the
21 bottom that the shooting started, he ran inside the house.

22 Q All right. And that would be who, I think,
23 Mr. Kilgore referred to as Boobee, or something like that?

24 A I talked to Christopher Brannon. I think they have
25 referred to him as that. But I didn't know him as that

1 until, I guess, the other day.

2 Q So -- now, at one point during the course of the
3 investigation, you sought out some -- an order for some
4 non-testimonial evidence; correct?

5 MR. HUNTER: Objection, Your Honor.

6 May we approach?

7 THE COURT: Yes.

8 (WHEREUPON, a bench conference was held.)

9 BY MR. THOMPSON:

10 Q Mr. Gary, did you ever seek to try to get any DNA off
11 of those casing -- shell casings in the -- in the roadway?

12 A Yes, sir.

13 Q And was that successful?

14 A No, sir, it was not.

15 Q You couldn't find any DNA on them?

16 A No, we couldn't, which is really not that unusual.
17 It's -- actually, according to Greenville DNA when we
18 talked to them about using their lab, they said they've
19 never gotten DNA off of a shell casing swab because of the
20 heat and all from that.

21 So it's worth a shot. You never know, it may be the
22 first case. But they said they've never gotten any DNA at
23 all from a fired cartridge casing.

24 Q So you did -- you did try to get it, but nothing came
25 up; right?

1 A Absolutely.

2 Q And I think you -- you were on the scene with -- were
3 you there present when Lieutenant Hutchins was present?

4 A Yes, sir.

5 Q Okay.

6 A We're not always together.

7 Q But -- and then you've been through everything, and
8 all of the exhibits, and pieces of evidence; correct?

9 A Yes, sir.

10 Q All right. You testified earlier that as far as
11 those -- that evidence that bullets can go a lot of
12 places?

13 A Yes, sir.

14 Q And then shell casings can be scattered in a lot of
15 places?

16 A They're not as susceptible to go a lot of places,
17 depending on what they hit. If they land in the grass,
18 they usually stay right there. If they land on a hard
19 surface, they can bounce, roll, whatever. If they're in
20 an area with foot traffic, they can get kicked, moved,
21 whatever. It's the same thing with a projectile that's on
22 the ground. It can get kicked, stepped on, run over by a
23 car.

24 So, normally, a bullet because it might be -- you
25 know, let's say in this case a .45, it might be traveling

1 12, 14, you know, 13 feet per second where shell casings
2 dropping six feet to the ground out of a car. So,
3 obviously, a projectile is going to go more places and
4 further than a shell casing.

5 Q Right. And the vast majority of the shell casings
6 here were in the roadway; correct?

7 A Yes, sir.

8 Q And they were susceptible to traffic going by like
9 Ms. Herring testified?

10 A Absolutely.

11 Q When you arrived, was Mr. Hull's body still there?

12 A It was.

13 Q And do you remember, was it on -- was he on his back,
14 or on his side, stomach?

15 A From what I remember -- it's, actually, on these
16 pictures. From what I remember, it's kind of up on the
17 left side towards his stomach, not dead on his side or --
18 bad word -- but not completely on his side. But kind of
19 on the side to his stomach area with one foot kind of
20 pulled over the other.

21 Q Do you -- and it looks like he's partially in the
22 road?

23 A Yeah. And probably from his shoulder up maybe is
24 what it is shown in the picture.

25 Q And in the diagram we saw yesterday, there's no shell

1 casings around him; correct?

2 A Not immediately around him.

3 Q All right. I'm going to go back to Mr. Brewton
4 briefly. Do you recall anything that he said about
5 Mr. Hull engaging that crowd?

6 A Yeah. He said that he -- things were kind of -- I
7 wouldn't say completely squashed, but they were maybe
8 close there. He comes up and was not happy seeing
9 somebody out there with a gun, and got mouthy about that.

10 Q So Mr. Brewton, according to him, he -- he calmed
11 everything down?

12 A Well, like I said, I think it was working that way.
13 But the party -- the party in the road was not turning
14 around and walking away. Their party was working on
15 getting back towards their vehicle. They hadn't been able
16 to make it that far yet when he came up.

17 So I wouldn't say it was broken up. Because, to me,
18 broken up is both people turning 180 degrees and going in
19 complete opposite directions.

20 Q Okay. So you -- you do recall that on that interview
21 from the 28th, I believe; right?

22 A I recall the story. I can't recall word for word
23 what was said. But I recall that being part of the story
24 that he told from -- of what he witnessed that night.

25 Q Did you have a -- an address for Mr. Simpson?

1 A Mr. Simpson-Davis?

2 Q Yes.

3 A Yeah. I forget what was put on the warrant. But it
4 was the address that I had for him at the time.

5 Q Okay. That was over near the Beaumont area; right?

6 A I don't recall the address on the warrant.

7 Q Did -- did you get any information about the
8 processing of the vehicle that the victims left in?

9 A I think it was examined at the hospital.

10 Q Did you ever find any projectiles?

11 A I don't recall any being recovered from it. There
12 should be pictures of it.

13 Q Was that vehicle -- but the vehicle was processed?

14 A As far as I know, yes. I wasn't at the hospital when
15 that took place. I was at the scene.

16 Q That would have been at night?

17 A Yes, sir.

18 Q And you indicated that you believed the victims of
19 the shooting to the leg and foot, Mr. Kilgore and
20 Mr. Brewton, you -- you -- what led you to believe they
21 wanted to handle things themselves? You -- you've been in
22 law enforcement 22 years and a day, or something?

23 A 22 and a half and a day.

24 Q Yeah.

25 A But -- but I've been in investigations for 18 years,

1 15 of that either as a supervisor or working violent
2 crimes. And it's just -- it's typical. They didn't come
3 out and say that's what they wanted to do. They did not
4 say they were concerned for their safety or for their
5 family. But -- and that's an assumption on my part is
6 just that resistance I got is typical. And because --
7 there have been people that have come out and said, I'm
8 not going to tell you anything. I'm going to take care of
9 it. And that wasn't said here. But -- and that could
10 just be an assumption on my part.

11 Q But -- okay. So their demeanor was such that you
12 knew that --

13 A Well, he was mad. I mean, he was mad and scared for
14 his family.

15 Q And briefly on the phone records that you received.
16 You received a phone from Mr. Clark that you seized;
17 correct?

18 A Yes.

19 Q And you -- you know the numbers that were called.
20 And, apparently, Mr. Simpson-Davis was called twice during
21 that time period; right?

22 A The -- yes, sir. He was called twice. But the
23 duration of the calls -- he might have talked to him one
24 time, it's hard to say. One shows it lasted eight
25 seconds. The second one showed it lasted 22 seconds. The

1 third one, the actual call that was answered, when
2 Mr. Holmes Simpson-Davis called Mr. Clark back, that
3 lasted a minute and 26 seconds. So it's pretty obvious
4 there was a conversation.

5 Q But you don't know what was said, or even if
6 Mr. Davis was on the other end of that call; right?

7 A Well, I don't have what was said, which would be a
8 lot better if we did. It might clear some things up. But
9 based on Ms. Woodruff's statement that he said he received
10 a call and needed to go, I drew -- I would draw a
11 conclusion -- he had possession of the phone the day
12 before, that he was the one that answered the call at that
13 time of day. Because he said he got a call and needed to
14 go somewhere.

15 Q Ms. Woodruff and -- she never gave you a time on
16 receiving the call; right?

17 A I don't think so.

18 MR. THOMPSON: I have no further questions.

19 REDIRECT EXAMINATION

20 BY MR. HUNTER:

21 Q Just so we know that this investigation was complete.
22 You all attempted to get fingerprints off of some of the
23 shell casings as well; right?

24 A Yes, sir, we did.

25 Q But were unsuccessful in that as well?

1 A Almost -- almost as impossible if not as -- it's very
2 rare, especially with the surface area to get a full print
3 you can, actually, identify. You might get a partial, a
4 little ridge from a fingerprint. But I've never heard of
5 DNA on it.

6 Q And, basically, the evidence collected, and the
7 statements given, all the evidence that you received, who
8 did you arrest for the murder of Robert Hull?

9 A Holmes Simpson-Davis.

10 MR. HUNTER: Thank you.

11 No further questions.

12 THE COURT: You may step down.

13 MR. HUNTER: May Investigator Gary be excused --
14 excuse me, Lieutenant Gary?

15 THE COURT: He may be.

16 We'll take a break.

17 I'll ask the jury to, please, go to your jury room.
18 Do not discuss the case. I'll bring you back after that
19 break.

20 (WHEREUPON, the jury was excused from open court at
21 approximately 11:16 a.m.)

22 THE COURT: We'll be in recess for 15 minutes.

23 (WHEREUPON, a break was taken.)

24 THE COURT: Bring the jury in, please.

25 THE BAILIFF: Yes, Your Honor.

1 (WHEREUPON, the jury came into open court at
2 approximately 11:38 a.m.)

3 THE COURT: The jury is present.

4 You may proceed.

5 MR. HUNTER: At this time, the State calls Brianna
6 Woodruff.

7 WHEREUPON,

8 BRIANNA WOODRUFF,
9 after first having been duly sworn, testified as follows:

10 THE CLERK: You can be seated.

11 THE COURT: And do you have gum in your mouth?

12 THE WITNESS: Yeah.

13 THE COURT: Put it in the trash can right there,
14 please.

15 Get close to that black microphone. And speak into
16 it loudly so we can hear what you have to say.

17 DIRECT EXAMINATION

18 BY MR. HUNTER:

19 Q Please state your full name for the record.

20 A Brianna Woodruff.

21 Q Where do you live, Ms. Woodruff?

22 A [REDACTED].

23 Q Okay. That's off of Southport?

24 A Yes.

25 THE COURT: Scoot up a little bit more.

1 BY MR. HUNTER:

2 Q Now, do you remember Investigator Gary coming to your
3 house with Investigator Paul Norris back in August of
4 2015?

5 A Yes.

6 Q Okay. First things first. You still drive a Lexus;
7 correct?

8 A Yes.

9 Q A Lexus 250?

10 A Yes.

11 Q With a license plate [REDACTED]

12 A Yes.

13 Q Okay. And you still have that car today?

14 A Yes.

15 Q Do you remember them coming to visit you on
16 August 6th at your house at [REDACTED]?

17 A Yes.

18 Q And that was at lunchtime?

19 A I guess. It was a long time ago.

20 Q Okay. Did they ask you questions about this case?

21 A Yeah, I guess. It was a long time ago.

22 Q Did they -- did you write a statement about this
23 case?

24 A Yeah, I guess.

25 Q You guess or you did?

1 A Yeah.

2 Q Yes?

3 A Yes.

4 Q In fact, you wrote two statements that day; is that
5 correct?

6 A Yes.

7 (WHEREUPON, State's Exhibit Nos. 59 and 60 were marked
8 for identification only.)

9 BY MR. HUNTER:

10 Q Would you like to see your statements?

11 A (There was no response.)

12 Q You hold onto those.

13 A Okay.

14 Q Now, you heard Investigator Gary testify; correct?

15 A Yes.

16 Q And you heard him testify that they came to your
17 house and looked at your car; is that correct?

18 A They didn't really look at it. I guess they seen it
19 when they was leaving. But he didn't look -- like look at
20 it like, oh, can I see your car?

21 Q Would you agree that there's no bullet strikes on
22 your car, though?

23 A Uh-huh.

24 Q Okay.

25 THE COURT: Please answer "yes" or "no" when you're

1 responding to a question.

2 THE WITNESS: Okay.

3 THE COURT: What was the answer to the last question?

4 BY MR. HUNTER:

5 Q Would you agree that there are no bullet strikes on
6 your car?

7 A I agree it wasn't [sic].

8 Q When you gave your first statement, where were you on
9 the 24th?

10 A At home.

11 Q Okay. The first statement never mentions Holmes
12 Simpson-Davis, does it?

13 A No.

14 Q Why not?

15 A Because it doesn't.

16 Q Okay. Your second statement does mention Holmes
17 Simpson-Davis, doesn't it?

18 A Yes.

19 Q It's because the second statement is more truthful
20 than the first; correct?

21 A No.

22 Q It's not. Why not?

23 A Because when the investigator came and talked to me
24 after I wrote the first statement, he said, That's not
25 true. And he told me I was looking at one to three years.

1 He told me I should have seen a body somewhere. And he
2 said that we was together.

3 Q He said that y'all were together. So you just wrote
4 a statement because he said it?

5 A He told me I was looking at one to three years. I --
6 I've never been to jail before.

7 Q One to three years for what?

8 A He just said one to three years.

9 Q One to three years for what, though?

10 A That's just what he said.

11 Q Do you know of any crime that carries one to three
12 years?

13 A (There was no response.)

14 Q Because I don't. Do you know of any crime?

15 A (Witness shook her head.)

16 Q "Yes" or "no"?

17 A I don't know.

18 Q So in your first statement, you're saying that you
19 were home on Friday, the 24th, and you went to the liquor
20 house. That's the liquor house on Howard Street; is that
21 correct?

22 A Yes, sir.

23 Q You went there around 11:00?

24 A Around 10:30. So, yeah, I guess.

25 Q Your statement says around 11:00, your first

1 statement; is that correct?

2 A The first statement says I left home around 10:30.

3 Q Okay. Excuse me. You got to the liquor house --
4 left for the liquor house around 11:00?

5 A At 11:00, I don't -- this statement, it says 10:30.
6 That's the only time --

7 Q No. I'm saying you left your house at 10:30 to go to
8 the liquor house?

9 A Uh-huh.

10 Q You left the liquor house around 11:00 and went --
11 were alone from there as well; correct? That's your first
12 statement.

13 A Uh-huh.

14 Q You never mention Holmes?

15 THE COURT: Please answer "yes" or "no," and not
16 "uh-huh" and "huh-uh."

17 THE WITNESS: Yes.

18 BY MR. HUNTER:

19 Q You never mention Holmes. And you left the liquor
20 house at 11:00 on July 24th?

21 A Yes.

22 Q But, yet, your vehicle is seen there after 1:30. Is
23 that not correct?

24 A I don't know.

25 Q Where have you been sitting this entire trial?

1 A Over there.

2 Q On Holmes Simpson-Davis' side; is that correct?

3 A Yes.

4 Q That's your friend; correct?

5 A Yes.

6 Q These are not your friends, are they?

7 A (There was no response.)

8 Q You don't know them, do you?

9 A No.

10 Q So after you write this first statement, the officers
11 who know a little bit more through their investigation
12 confront you with that information; is that correct?

13 A Yes.

14 Q So you write a second statement?

15 A Yes.

16 Q And in that second statement, you get home on Friday,
17 the 24th; correct?

18 A Yes.

19 Q You left home alone and went to a friend's house and
20 started drinking; correct?

21 A Yes.

22 Q And you stated that after drinking, somebody made a
23 phone call; correct?

24 A (There was no response.)

25 Q It says, Somebody made a phone call; correct?

1 A Yes.

2 Q And after that phone call, you and Holmes left in the
3 car and went towards the liquor house. Is that what your
4 statement says?

5 A Yes. That's what it says.

6 Q All right. And you completely left that out of the
7 first statement; correct?

8 A Yes.

9 Q But before you even get to the liquor house, Holmes
10 gets out of the car. Is that what your second statement
11 says?

12 A Yes.

13 Q And you went on to the liquor house. Is that what
14 your statement says?

15 A Yes.

16 Q And then you get to the liquor house and you sit in
17 your car for a while until someone gets in the car that
18 you didn't know who that was; correct? And you,
19 ultimately, kicked that person out?

20 A That's what the statement says.

21 Q Okay. And you left the liquor house. And, later on,
22 Holmes got back into your vehicle; is that correct? Is
23 that what the statement says?

24 A That's what the statement says.

25 Q And then you went back to a friend's house; correct?

1 A Yes.

2 Q At the bottom of the statement, you talk about the
3 phone call that you received; is that correct -- or that
4 Holmes received?

5 A Yes.

6 Q In fact, you stated that his phone rang and that he
7 later asked you to take him to the north; is that correct?

8 A Yes.

9 Q And the north side, that's where the liquor house and
10 where this incident happened; correct? That would be
11 considered the north side; correct?

12 A Correct.

13 Q And this was the phone call that you received prior
14 to going to the liquor house -- or that Mr. Holmes [sic]
15 received prior to going to the liquor house; is that
16 correct, according to your statement?

17 A Yes.

18 Q Okay. You've heard these jail phone calls. You were
19 in the courtroom when we played them; correct?

20 A Yes.

21 Q That's you on the phone?

22 A Yeah.

23 Q And that's Holmes on the other side of the phone; is
24 that correct?

25 A Yes.

1 Q It is. That's Holmes and you on that phone call --
2 on all four of those phone calls?

3 A Yes.

4 THE COURT: Get close to the microphone or lift your
5 voice.

6 BY MR. HUNTER:

7 Q But according to those phone calls, you're saying the
8 second statement is incorrect?

9 A Yes.

10 Q And he's telling you to tell police that the second
11 statement is incorrect on those phone calls, is that not
12 correct? Is that not what he said?

13 A I don't remember.

14 Q You heard the phone calls. They were played not
15 30 minutes ago. He tells you to plead the Fifth; correct?

16 A (There was no response.)

17 Q But you're not charged with anything. You're not
18 going to be charged with anything, so you can't plead the
19 Fifth, can you?

20 A I don't know.

21 Q You don't incriminate yourself in these statements,
22 do you?

23 A (There was no response.)

24 Q You don't commit any crimes in these statements, you,
25 personally; correct?

1 A Correct.

2 Q But you put Holmes out before the liquor house, and
3 you pick him up after you leave the liquor house; correct?

4 A That's what the statement says.

5 Q So is that statement false?

6 A Yes.

7 Q But that's a statement that you wrote with your
8 handwriting; correct?

9 A Yes.

10 Q With Investigator Gary signing it down here?

11 A Yes.

12 Q Or excuse me. Paul Norris signing it down here?

13 A Yes.

14 MR. HUNTER: Your Honor, at this time, the State
15 would offer State's Exhibit No. 60 into evidence.

16 MR. THOMPSON: I object. We've got the testimony on
17 the stand.

18 THE COURT: Well, she said it was false.

19 So I overrule the objection.

20 (WHEREUPON, State's Exhibit No. 60 was admitted into
21 evidence.)

22 BY MR. HUNTER:

23 Q So it's your testimony here today that the second
24 statement where you put Holmes at the scene is false?

25 A Yes.

1 Q You gave that statement on August 6th, 2015; correct?

2 A Yes.

3 Q And today is September 7th, 2017 -- or 8th. I'm
4 losing my days. My wife is due to give birth in one week.

5 Four, five, six, seven -- so today is the 7th. Over
6 two years has passed since you, originally, gave that
7 statement?

8 A Yes.

9 Q Did you ever go to his office or call his number to
10 tell him that was a false statement --

11 A No.

12 Q -- in those two years?

13 A No.

14 Q When we served you with a subpoena a couple weeks
15 ago, did you tell us that was a false statement?

16 A No.

17 Q Did you ever come up to the third floor to the
18 Solicitor's Office and tell us that that was a false
19 statement?

20 A No.

21 Q Not until today after you talked to him while he was
22 in jail and he told you to plead the Fifth are you telling
23 this jury that that is a false statement?

24 A Can you repeat the question?

25 Q Not until today after you've talked to him in jail

1 are you telling us that it is a false statement?

2 A I guess.

3 Q "Yes" or "no"?

4 A Yes.

5 MR. HUNTER: Please answer any questions Mr. Thompson
6 may have for you.

7 MR. THOMPSON: May it please the Court, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. THOMPSON:

10 Q Ms. Woodruff, how long was Investigator --
11 Investigator Gary at your home?

12 A A few hours.

13 Q Okay. And, now, when you say a false statement,
14 would it be closer to say that it would be the product of
15 coercion --

16 A Yes.

17 Q -- or stress put on you by Mr. Gary?

18 A Yes.

19 Q Okay. And they wanted Holmes Simpson's name in this
20 report, did they not?

21 A Yes.

22 Q They wanted that specific date to be put in this
23 report, did they not?

24 A Yes.

25 Q Okay. Now, I'm looking at the second statement here.

1 They wanted Friday, the 24th, put in there; correct?

2 A Yes.

3 Q Did he stress that to you?

4 A Yes.

5 Q Okay. And you've indicated you left home, went to a
6 friend's house and started drinking. All right. Now,
7 your -- your home is -- is it on the south side?

8 A I guess.

9 Q Okay. You live near Spartanburg Methodist College
10 maybe?

11 A You know where EP Todd is, the school?

12 Q Yes, ma'am.

13 A Across the street from EP Todd.

14 Q Okay. And your friend lives over that way, too?

15 A Yes.

16 Q Okay. And you said that you -- in this statement,
17 you said you left and went towards the liquor house. Now,
18 you went to the liquor house fairly frequently; right?

19 A Yes.

20 Q All right. And before you got to the liquor house,
21 it says that you put him out of the car; correct?

22 A Yes.

23 Q So Holmes never went to liquor house, did he?

24 A No.

25 Q In fact, Holmes doesn't go to the liquor house, does

1 he?

2 A No.

3 Q Okay. So if this statement's true, you could have
4 put him out two miles down the road, or something;
5 correct?

6 A Yes.

7 Q All right. And then it says that you stayed there
8 for a while and then you went back. You left the liquor
9 house; correct?

10 A Yes.

11 Q And then you picked him up again; correct? I mean,
12 nothing in this statement or the first one ever says
13 Holmes was at that liquor house; correct?

14 A Correct.

15 Q It never says he's even near it; right?

16 A Yes.

17 Q > And then you talk about the phone call. It says,
18 Later on, Holmes' phone rang. And then it says, Later on,
19 he wanted to go to the north side. Now, do you know the
20 north side from the south side?

21 A Kind of, not really.

22 Q Okay. But the north side would be over toward
23 Oakview and --

24 A Yes.

25 Q -- Northside Apartment?

1 Okay. So you said that later on, he asked you to go
2 to the north side. So later on -- I mean, Investigator
3 Gary has got a little 14-minute window here, you know, if
4 it's later on, it could have been one minute or it could
5 have been an hour; right?

6 A Correct.

7 Q And at any time when you went to the liquor house,
8 you -- are you sure it was on the 24th?

9 A I don't remember.

10 Q All right. Is the liquor house open every day?

11 A Yes.

12 Q All right. But at any time when you were there
13 during this time, do you remember gun shots?

14 A No.

15 Q Do you remember anybody -- a body like Mr. Gary
16 indicated -- you said Mr. Gary said you should have seen
17 his body?

18 A No.

19 Q All right. So if your car was on Howard Street at
20 1:30, would you -- is there any other place you could have
21 been, other than the liquor house? Are there other
22 places?

23 A No.

24 Q Okay. So you -- if you'd been at the liquor house at
25 that specific time, you think you would have heard

1 gunshots; correct?

2 A Correct.

3 Q All right. So you indicate that Mr. Gary was there
4 for two hours, at least?

5 A Yes.

6 Q Okay. And did he ever contact you again, or anybody
7 from the sheriff's office ever contact you again?

8 A Other than when they served me that subpoena?

9 Q Uh-huh.

10 A No.

11 Q Okay. And at the time you got the subpoena, you --
12 you, basically, called -- or you got a call from Holmes;
13 right?

14 A Yes.

15 Q And plead the Fifth means be quiet, keep your mouth
16 shut; right?

17 A Yes.

18 Q Okay. And you had given two statements; correct?

19 A Correct.

20 Q And what was your fear there?

21 A What? With the two statements?

22 Q Well, yeah. What were you -- why were -- why were
23 you scared? I mean, why did he tell you to go -- you were
24 looking at one to three years? He told you that, really?

25 A He -- yeah.

1 Q Mr. Gary did, or someone else?

2 A Mr. Gary did.

3 Q Okay. And at any time when Mr. Gary came over to
4 you, did he tell you that you had the right to have an
5 attorney with you while he questioned you?

6 A No, sir.

7 Q He didn't. He didn't give you a little Miranda card
8 to check off that said you had the right to remain silent?

9 A No, sir.

10 Q Because you weren't charged with a crime. But you
11 didn't -- but he didn't tell you that you didn't have to
12 give a statement?

13 A No, sir.

14 Q He didn't ask you if you had an attorney, somebody
15 you wanted to confide with before you gave a statement?

16 A No, sir.

17 Q Okay. So, basically, Holmes is telling you to plead
18 the Fifth, keep your mouth shut when they're talking
19 about -- did they say something about Little Man was going
20 to roll -- or going testify?

21 A They said he was cooperating with them.

22 Q Okay. So, basically, he didn't want you talking to
23 anybody; right?

24 A Correct.

25 Q Okay. So -- and you agree with me that you finished

1 at 1:47 p.m., the first one, and the other at 3:00;
2 correct?

3 A Yes.

4 Q And at no time during -- between those two time
5 periods did Lieutenant Gary ever leave, did he?

6 A No, sir.

7 Q All right. And then the -- the phone calls that you
8 received going back and forth with Mr. Davis --
9 Simpson-Davis, basically, do you -- you realize that if
10 you pled the Fifth, you wouldn't even be saying a word
11 from that witness stand right now?

12 A Yes.

13 Q You have -- you have learned that since?

14 A Yes.

15 Q Okay. But you didn't do that; right?

16 A No, sir.

17 MR. THOMPSON: I have no further questions.

18 MR. HUNTER: No questions for this witness, Your
19 Honor.

20 THE COURT: You may step down.

21 MR. HUNTER: Your Honor, at this time, the State's
22 going to recall Investigator William Gary.

23 THE COURT: You're still under oath having previously
24 been placed under oath.

25 THE WITNESS: Yes, sir.

DIRECT EXAMINATION

BY MR. HUNTER:

Q You, obviously, were here when you heard
Ms. Woodruff's testimony; correct?

A Yes, I was.

Q All right. As part of that second statement, she
talks about going to a friend's house. Did you ask her
where this friend's house was?

A I did.

Q Did she ever tell you?

A She would not.

Q In fact, when we served her the subpoena, did you ask
her where this friend's house was?

A I did.

Q Would she ever tell you?

A She would not.

Q All right. Did you ever threaten her with one to
three years?

A No, I did not.

Q Do you know of any crime that even carries a sentence
of one to three years?

A I do not.

Q Now, Ms. Woodruff is claiming that you threatened and
coerced her. Did you threaten or coerce her?

A No, I did not.

1 Q Mr. Thompson asked her if she had her Miranda
2 warnings read to her. Explain to us why you did not read
3 her her Miranda warnings.

4 A Miranda warnings are only applicable to someone who
5 may incriminate themselves in a statement when they could
6 receive it in custody, and you're asking those questions.
7 I had no indication that she had done anything wrong other
8 than give someone a ride to and from a place. I had
9 nothing to indicate she knew what was going to happen
10 before or, necessarily, after it happened.

11 So I wasn't looking to her as a suspect for charges.
12 Plus, she's not in custody. I'm talking to her at her
13 house while she's fixing lunch. So by the way the law is
14 with Miranda, it's not applicable to read her her rights
15 at that time.

16 Q Now, you're talking to multiple witnesses on the
17 scene?

18 A Yes.

19 Q Did you read them their Miranda rights?

20 A I did not.

21 Q Okay. Why not?

22 A They weren't a suspect of anything. They weren't in
23 custody. It was an interview.

24 Q Just like with Ms. Woodruff?

25 A Correct.

1 MR. HUNTER: Please answer any questions Mr. Thompson
2 may have.

3 MR. THOMPSON: May it please the Court.

4 THE COURT: Yes, sir.

5 CROSS-EXAMINATION

6 BY MR. THOMPSON:

7 Q You indicate that you spoke to several people on the
8 scene and they weren't Mirandized?

9 A I don't -- I didn't Mirandize anybody at the scene.

10 Q Okay. Did you -- did you get written sworn
11 statements from all those people you interviewed?

12 A No, I did not.

13 Q Okay. And, at any time, did you inform her that she
14 could have an attorney present while she was questioned by
15 police?

16 A I had no reason to.

17 Q Why not?

18 A She was there as a potential witness. Her car was at
19 the scene.

20 Q Her car was where?

21 A At the scene.

22 Q Okay. But you would understand that she could put
23 herself into an incriminating situation as an accessory or
24 something like that; correct?

25 A That could happen talking to anyone. And if that had

1 been said -- or, say, she said that Holmes told me he was
2 going up there because he was going to shoot somebody, I
3 would have -- at that point would have stopped it and read
4 her her rights. Because she's about to tell me she knew
5 what was going to happen beforehand, which she never did.

6 And the top of the form says, Voluntary Statement on
7 here. It's purely voluntary to write it out. I didn't
8 write it for her. It's her words, her handwriting.

9 Q Okay. Is it common for you to remain at a home for
10 an hour and a half to get a statement?

11 A I'm sure I've remained at homes longer than that.

12 Q And, realistically, it's not uncommon to have someone
13 write more than one statement, is it?

14 A No, it's not.

15 Q In fact, I think someone else wrote two statements in
16 this case, didn't they?

17 A Yes.

18 Q So -- and I think you said, basically, she's -- all
19 she did was give somebody a ride; right?

20 A That's what her statement says.

21 Q And you -- and, also, she -- in her statement, she --
22 there was something about her waiting later on after -- or
23 somebody had made a call. The phone -- I never got it
24 determined if it was incoming or outgoing. I believe it
25 was incoming. But she -- later on, she was -- had went

1 somewhere; right?

2 MR. HUNTER: Your Honor, this is outside the scope of
3 the direct.

4 THE COURT: Well, I understand that, but you've
5 recalled him, so.

6 THE WITNESS: Can you rephrase that question? I'm
7 not sure I understand what you're asking.

8 BY MR. THOMPSON:

9 Q Basically, in the statement, she says that, later on,
10 he asked me to go. He -- the phone call came in and then,
11 later on, he asked me to go somewhere; correct?

12 A All right. The part that that's in is in
13 parenthesis. Once she wrote the statement out -- at the
14 top of the statement, she said somebody made a phone call.
15 Once the call was made, me and Holmes left in the car.

16 I'd asked her to clarify that. And she had said,
17 Holmes' phone rung. Later on, he asked me to take him to
18 the north. This is when -- the phone call received prior
19 to going to the liquor house.

20 So she's clarifying that phone call in that
21 parenthesis statement that she put in.

22 Q And -- and you urged that parenthetical, did you not?

23 A I asked her if she could clarify what she meant by
24 that.

25 Q Okay. And then --

1 MR. THOMPSON: If we may approach, Your Honor.

2 THE COURT: Okay.

3 (WHEREUPON, a bench conference was held.)

4 BY MR. THOMPSON:

5 Q Investigator Gary, for the sake of not having to call
6 you when I call witnesses, I want to ask you a couple
7 other things. A report here --

8 MR. THOMPSON: If I may approach the witness, Your
9 Honor.

10 BY MR. THOMPSON:

11 Q You indicated on this supplemental that Mr. Davis and
12 Mr. Glenn have been developed as suspects in this case.
13 Warrants will be sought for their arrest. Now, who is
14 Mr. Glenn?

15 A That was probably a typo. I'm not sure who that
16 would be. I don't know of --

17 Q So there's no other suspect developed?

18 A Actually, yeah, there was. We have a Felshunti Clark
19 that was charged with a different crime in this case.

20 Q Okay. But Mr. Glenn was not a third --

21 A No. That would be a typo.

22 Q Okay. And then, at some point, when Mr. Davis --
23 Simpson-Davis was arrested, a phone was seized from him;
24 correct?

25 A It was.

1 Q And that was his father's phone?

2 A It was determined to be his father's. And so it was
3 returned to his father.

4 Q Right. But before then, the father was given the
5 wrong phone by the county; correct?

6 A He was.

7 Q And that, in fact, was Felshunti Clark's phone that
8 they gave him; right?

9 A I don't remember which phone it was. They did give
10 him a phone in error. And it was determined very quickly
11 after that it was the wrong phone. So he brought that
12 back, and his phone was returned to him.

13 Q Okay. But it was highly likely that it was Mr. --
14 Mr. Clark's phone?

15 A I don't remember which one it was. I'm sure it's
16 documented in the evidence sheet.

17 Q So, in October, you released the black phone to
18 Mr. Davis, do you understand that, per your -- your
19 directions; correct?

20 A Yeah. I told them they could give his -- his
21 father's phone back.

22 Q So, basically, all the evidence -- you don't put
23 phones in different cases in one drawer or box; right?

24 A No. I'm sure it came out of the same case. I
25 just -- right now, I can't tell you without looking at it

1 if it was that phone. I, really, don't remember if there
2 was another phone seized or not.

3 Q But, to your knowledge, you did seize Clark's phone;
4 right?

5 A Yes.

6 Q And you did seize Mr. Davis' phone from -- from his
7 son?

8 A Correct.

9 Q And then -- so are you aware of any other phones that
10 were seized?

11 A I just -- I just can't recall. I know that if it was
12 Felshunti Clark's phone that was mistakenly released to
13 the father by one of our evidence custodians, then it was
14 done, I guess, in October, whenever it was that he came
15 in. It was returned quickly, which was after the search
16 warrant was done, and the exam was done, and all that.

17 Q It was after -- it was after the Greenville -- it had
18 been sent to Greenville?

19 A Oh, yeah.

20 Q Okay.

21 A If it was that phone.

22 Q And -- and -- but you're saying -- your testimony is
23 you're not a hundred percent sure if that was Mr. Clark's
24 phone or not?

25 A Right now, no. I mean, I'm sure there's something

1 that documents which phone it was.

2 MR. THOMPSON: I have no further questions.

3 REDIRECT EXAMINATION

4 BY MR. HUNTER:

5 Q But, ultimately, with -- if it was Mr. Clark's phone,
6 all the examination had already been done on that phone,
7 and it's merely just sitting in evidence; is that correct?

8 A Correct. It's probably in the box with it. And they
9 grabbed the wrong one by mistake.

10 MR. HUNTER: Okay.

11 THE COURT: You may step down.

12 MR. HUNTER: May Mr. Thompson and I approach briefly?

13 THE COURT: Yes.

14 (WHEREUPON, a bench conference was held.)

15 MR. HUNTER: The State calls Bruce Brewton.

16 WHEREUPON,

17 BRUCE BREWTON,

18 after first having been duly sworn, testified as follows:

19 THE CLERK: Have a seat.

20 THE WITNESS: Yes, ma'am.

21 DIRECT EXAMINATION

22 BY MR. HUNTER:

23 Q Please state your full name for the record.

24 A Bruce Brewton.

25 Q How old are you, Mr. Brewton?

1 A I'm 35 years old.

2 Q Are you employed?

3 A Yes, sir, I am.

4 Q With what company?

5 A Davis Services Heat and Air Conditioning.

6 Q So what do you do?

7 A I am a maintenance and service technician.

8 Q Okay. And how long have you been a maintenance and
9 service technician?

10 A Including school, five years.

11 Q Okay. So were you a maintenance and service
12 technician at the time of this incident?

13 A Yes, sir, I was.

14 Q Okay. And you -- obviously, you remember this
15 incident?

16 A Yes, sir, I do.

17 Q Okay. Can you start telling us by -- what you were
18 doing on July 24th, the night before the shooting?

19 A I was chilling with this -- outside. I should have
20 stayed there. But I wanted to go have some fun. So I
21 came to the liquor house on --

22 Q Okay. So when you arrived at the liquor house, you
23 were by yourself?

24 A Yes, sir, I was.

25 Q Where did you park?

1 A I parked at my Uncle Willie Seymour's house.

2 Q All right. Well, where is Uncle Seymour's house?

3 A It's across from the liquor house.

4 Q So across Howard Street on one of the side streets

5 that are --

6 A Yes, sir. I think it's Huxley.

7 Q Okay. But right across the street?

8 A Yes, sir.

9 Q After you park your car, what do you do?

10 A I exit my car and go inside the liquor house.

11 Q And that's Willie Johnson's house?

12 A Yes, sir.

13 Q Who's there?

14 A When I get there, I seen my family. I seen Robert.

15 I seem JJ. And Red is in there. And --

16 Q I'm going to ask that you try to use people's real

17 names --

18 A Okay.

19 Q -- so that we can keep up with them.

20 A Well, I seen Robert Lee Hull there, my cousin --

21 Q Okay. And that's the deceased?

22 A Yes, sir. I seen James Kilgore. I seen Mr. Young.

23 And I seen Mr. Clark in there just back and forth around.

24 Q So Felshunti Clark is there?

25 A Yes, sir.

1 Q Did you ever see Holmes Simpson-Davis at the liquor
2 house?

3 A No, sir, I did not.

4 Q Okay. What do y'all do at the liquor house?

5 A I was getting wasting.

6 Q Is that what everybody else was doing?

7 A I guess. I can't account for everybody else. I know
8 me.

9 Q Is that what JJ and Robert were doing with you?
10 Because you were with them; correct?

11 A Yes, sir.

12 Q Okay. What happens at [REDACTED], the liquor
13 house?

14 A I don't know. Because I was in there the whole time.
15 And I was just drinking, and having a good time,
16 high-fiving people. And they said a fight broke out
17 outside. I never did exit the liquor house until I was
18 ready to leave.

19 Q All right. So you were inside the entire time?

20 A Yes, sir, I was.

21 Q But we've, obviously, heard an altercation occurred
22 with Mr. Kilgore --

23 A I --

24 Q -- outside?

25 A Outside, I guess it did.

1 Q Okay. But you're ready to leave the liquor house.
2 What do you do?

3 A I come out of the liquor house and I say, JJ, Big
4 Boy, y'all ready to ride? Let's go.

5 Q Now, why are they going to ride with you?

6 A Because when I got there, everybody asked me for a
7 ride home.

8 Q Okay. So you were going to give rides to JJ and
9 Mr. Hull home?

10 A Yes, sir.

11 Q Ultimately, did Mr. Hull ever get in your car?

12 A No, sir, he did not.

13 Q Okay. Who got in your car?

14 A It was me, myself, James Kilgore, Mr. Young, and
15 Mr. Brannon.

16 Q Okay. Now, in your statement, when you first talk to
17 police, you don't tell them about Mr. Brannon, do you?

18 A No, sir, I do not.

19 Q Why not?

20 A I forgot.

21 Q Okay. Now, y'all get into your car. Why didn't
22 Mr. Hull get in the car with you?

23 A He said he had to go over to my cousin -- to Anitra's
24 house to gather his things.

25 Q And there's, basically, an empty lot next to the

1 liquor house?

2 A Yes, sir, it [sic] is.

3 Q And then there's Anitra's house?

4 A Yes, sir.

5 Q And that's the [REDACTED] address that we've
6 all been hearing about?

7 A Yes, sir.

8 Q Okay. So you get in your car across the street?

9 A Yes, sir.

10 Q With the three individuals you've already named?

11 A Yes, sir.

12 Q And you drive over to [REDACTED]?

13 A Yes, sir.

14 Q How do you pull your car in?

15 A I pull it in forward.

16 Q Okay. We've seen pictures with a Chevy Avalanche in
17 the driveway. Was that vehicle there?

18 A Yes, sir, it was.

19 Q All right. Where'd you park your car in comparison
20 to that vehicle?

21 A Like -- I'd say about five feet away from it.

22 Q Now, are you behind it or beside it?

23 A I'm behind it.

24 Q Okay. After you park your car, what do you do?

25 A I get out to go get a light for my cigarette.

1 Q Okay. So you went to go smoke a cigarette?

2 A Yeah. I went over to Anitra and Angela and asked
3 them for a light. And I was talking to them for a second.

4 Q Okay. Not for very long, though?

5 A Yeah. It was for a minute until I heard all the
6 commotion behind me.

7 Q Okay. What was that commotion that you heard behind
8 you?

9 A It was a lot of -- it was Holmes Simpson, Felshunti
10 Clark, and my cousin, JJ, along with a couple other guys.

11 Q Okay. When you say "a couple other guys," where
12 was -- where were these "a couple other guys"?

13 A They was like on the street at the edge of my
14 cousin's driveway.

15 Q What about Holmes Simpson and Felshunti Clark, where
16 are they?

17 A They were, like, standing, like, right beside each
18 other.

19 Q Okay. Are they with these other guys?

20 A Yes, sir, they are.

21 Q Okay. Did you recognize any of these other guys?

22 A No, sir, I didn't.

23 Q Okay. Well, then how did you recognize Mr. Clark and
24 Mr. Davis?

25 A I recognized Mr. Clark because I knew him all my

1 life.

2 Q Okay. And Mr. Davis?

3 A Mr. Davis, I didn't really know the fella. I knew
4 his mother.

5 Q Okay. But you had met him before?

6 A No. I had never met Mr. Davis before.

7 Q Okay. Well, would you agree that Mr. Davis sitting
8 over with Mr. Thompson -- Mr. Davis is the person sitting
9 over there?

10 A Yes, sir.

11 Q With the top --

12 A Yes, sir.

13 Q -- is Mr. Holmes Simpson-Davis?

14 A Yes, sir.

15 Q Okay. And he was with Mr. Clark that night?

16 A Yes, sir, he was.

17 Q Okay. So what's going on with the commotion?

18 A The commotion was about Little Man acted like he
19 wanted to fight James Kilgore -- I mean Mr. Clark acted
20 like he wanted to fight Mr. James Kilgore.

21 Q Okay. But you don't know why?

22 A No. I have no idea.

23 Q Okay. When they're talking about fighting, what do
24 you notice about Holmes?

25 A Holmes has his gun already out.

1 Q Okay. How many guns did you observe at the scene?

2 A Two.

3 Q Okay. So Holmes had a gun?

4 A Yes, sir, he did.

5 Q Who else had a gun?

6 A Some other guy. I don't know who he was.

7 Q Okay. What were these gentlemen wearing?

8 A I really can't recall. But I think we all had on
9 white T-shirts.

10 Q So all of y'all had white -- everybody had --

11 A I think everybody had on white.

12 Q Okay. But there's two guns on the scene?

13 A Yes, sir.

14 Q All right. Who else is outside with you?

15 A Outside with me -- I'm still talking to Anitra Geter
16 and Angela Geter.

17 Q Okay. Where is Mr. Young at this point? Do you
18 know?

19 A Mr. Young was -- I don't know. I guess he was
20 already creeping behind the house, or something.

21 Q Okay. And that's the gentleman known as "Red"?

22 A Yes, sir.

23 Q And he's the one that drove you to the hospital?

24 A Yes, sir, he is.

25 Q And Mr. Brannon is, also, in your car when you pulled

1 up; correct?

2 A Yes, sir.

3 Q Where did he go?

4 A I have no idea.

5 Q Okay. So when you notice this commotion, who's --
6 who's down the street?

7 A James -- James Kilgore and Hull is down there, Little
8 Man -- I mean Mr. Clark, and Holmes Simpson-Davis, and a
9 couple other guys.

10 Q Will you take that laser pointer that's right there?

11 A (Witness complied.)

12 Q All right. Do you see that picture up behind you?
13 Remember to talk in the microphone, though.

14 A Yes, sir.

15 Q Okay. With that laser pointer, can you point where
16 Mr. Felshunti Clark was?

17 A Holmes was on the end. So about right in here
18 somewhere --

19 THE COURT: You've got to speak up.

20 THE WITNESS: He --

21 THE COURT: Excuse me. Speak up.

22 THE WITNESS: Holmes Simpson was on the end, on the
23 far end side. Mr. Clark was in the middle.

24 BY MR. HUNTER:

25 Q Okay. Are you sure -- remember, we're looking at the

1 street?

2 A Uh-huh.

3 Q Okay. Who -- so Mr. Holmes Simpson-Davis is on
4 the -- not the city side?

5 A Yeah. He's on the city side. He's on the far end.

6 Q Okay. Excuse me. No. Remember, we're looking at
7 the city in this picture. So he's on the far end closer
8 to the sheriff's office?

9 A Uh-huh -- no, this end right here going to the city.
10 He's on this side.

11 Q Okay. Now, where is Mr. Kilgore?

12 A Mr. Kilgore is like somewhere right in here facing
13 Little -- facing Mr. Clark.

14 Q Okay. So Mr. Kilgore and Mr. Clark are facing each
15 other?

16 A Yes, sir.

17 Q Okay. What happens?

18 A They was -- Mr. Clark was asking James Kilgore, Let's
19 get that one. Let's get that round. But he really never
20 wanted to fight. Because Holmes Simpson-Davis had his gun
21 out and he was like, It ain't going to happen like that.

22 So what I did, when I, finally, heard the commotion,
23 I just went out there. Because I was speaking to Anitra
24 and Angela. I was like, Hold on. Come on. Mr. Clark, I
25 know you. I didn't know Mr. Simpson-Davis. But I was

1 like, Listen, we all came up together. I don't know what
2 y'all got going on. But y'all need to let me get my
3 cousins home. And then if y'all hadn't squashed it by the
4 next time y'all see each other, you can do what you want
5 to do with each other. I really don't care.

6 And they was like, All right, Little Bruce. That's
7 what Mr. Clark said, All right, Little Bruce.

8 So everybody was going to back off and going to go
9 get in my car.

10 Q But when you say you were kind of squashing it,
11 neither side really leaves the street right there, do
12 they?

13 A Not -- not right in that second. Nobody is, like,
14 really turning and going in the opposite direction.

15 Q So when you're trying to squash this fight, what does
16 Mr. Robert Hull do?

17 A He came off the porch. Because he would take up
18 anybody's fight in the family, no matter if you're going
19 to win or not.

20 Q So you, Mr. Hull, and Mr. Kilgore are all family?

21 A Yes, sir.

22 Q Okay. Related some -- either -- cousins?

23 A Yeah. Mr. Robert Lee Hull and my daddy are first
24 cousins.

25 Q Okay. When he comes off the porch, what does he say?

1 A He told them -- you know what I'm saying? He was,
2 like, You know what I'm saying? Forgot y'all guns. Y'all
3 guns don't mean nothing.

4 And him and Holmes Simpson was face-to-face. And I
5 guess Holmes took it the wrong way or got tired of them
6 bumping up against each other and started firing.

7 Q All right. Did you ever see Robert Hull with a
8 weapon?

9 A No, sir.

10 Q When I say "a weapon," did you ever see him with a
11 gun that night?

12 A No, sir.

13 Q Did you ever -- did you have a weapon?

14 A No, sir.

15 Q Did Mr. Kilgore have one?

16 A No, sir.

17 Q Did Mr. Kilgore ever throw a punch at any of the
18 gentlemen in the street?

19 A No, sir.

20 Q Did you throw a punch at anybody in the street?

21 A No, sir.

22 Q And, finally, did Mr. Hull ever throw a punch at any
23 of those people in the street?

24 A No, sir.

25 Q So what did you observe Mr. Davis do?

1 A When they got to bumping into each other, well, I
2 guess that he got tired of Big Boy and him bumping up
3 against each other. He swung the gun across my face and
4 shot Big Boy twice, and just started repeatedly shooting.

5 Q So you -- you heard two shots?

6 A I heard two shots. And I seen my cousin fall. And,
7 you know, when someone's falling to their face, they're
8 going to brace their self. That never happened. So I
9 knew he was severely hurt at the time.

10 Q Okay. You don't need to move. But, again, can you
11 state how you saw Mr. Davis pull the weapon? Was the
12 weapon already out?

13 A He -- his weapon was already out.

14 Q All right. Can you stand up and using that laser
15 pointer as the gun, tell me -- show me how it happened?
16 You don't have to tell me. But show us how it happened.

17 A Are you talking about --

18 Q Just show us. You don't have to say anything. That
19 laser pointer is the gun with Mr. Davis.

20 A Okay. Well, he came around my face like this and
21 pow, pow.

22 Q How far away were you?

23 A I was, like, standing right beside Robert.

24 Q You can --

25 THE COURT: Excuse me, just a minute. You've got to

1 use the microphone.

2 THE WITNESS: I was standing right beside Robert Lee
3 Hull.

4 BY MR. HUNTER:

5 Q Okay. Approximately how far away was Holmes
6 Simpson-Davis?

7 A Well, they was, like, facing each other about, like,
8 right here. So -- and he was, like, moved over a little
9 bit and swung the gun across my face and shot him.

10 Q But, I mean, he didn't have the gun up to his head,
11 or anything, did he? Like on -- on his head?

12 A No, sir. No, sir. He just swung around and started
13 shooting.

14 Q So he was more than a foot away?

15 A Yes, sir.

16 Q And you hear -- you hear him fire his gun?

17 A Yes, sir. I seen him fire it.

18 Q And you see Mr. Hull --

19 A Drop to the floor -- drop to the road.

20 Q Does he move?

21 A He never moved after that.

22 Q What did you do?

23 A At first, I stood there. And they were still
24 shooting. Because I was, like, in shock. So when I did,
25 finally, started running, I tried to dive behind my truck.

1 Q Behind your vehicle?

2 A Behind my vehicle, yes, sir.

3 Q And you've got an Equinox; right?

4 A Yes, sir.

5 Q That's an SUV?

6 A Yes, sir.

7 Q Okay. Did you ever fire any shots back at them?

8 A No, sir.

9 Q Did you see anybody at the residence at [REDACTED] fire any
10 shots back at them?

11 A No, sir.

12 Q Okay. When you dove behind your truck, what
13 happened?

14 A When I dove behind my truck, I think I was already
15 shot through the calf muscle. And then later on following
16 that, another bullet came across the bottom of my ankle.

17 Q Okay. Do you still have scars from those wounds?

18 A Yes, sir, I do.

19 Q Do you mind standing up and showing us those scars?

20 A That's the first one that went through the back and
21 came out the front. And this is the one that came across
22 the bottom of my leg.

23 Q So you were shot in the back of the leg?

24 A Yes, sir.

25 Q And it, actually, exited your leg through the

1 front --

2 A Yes, sir.

3 Q -- as you were trying to run away?

4 A Yes, sir.

5 Q Okay. And then you were, also, shot across the top
6 of the foot?

7 A Across the top of my leg right here above my ankle.

8 Q That was more a graze wound?

9 A Yes, sir. It didn't feel like it.

10 Q Does it hurt?

11 A Yes, sir. From time to time, you know, like, when I
12 get up too fast, or something, it's like it's pulling the
13 muscle.

14 Q Can you describe your pain level that day?

15 A It was a lot of pain.

16 Q Okay. Now, you dive behind your truck, you're shot.
17 What do you do?

18 A Well, when I dive behind my truck, there's still a
19 lot of shooting going on. So when that first wave of
20 shooting stopped, I was about to jump in my own truck and
21 drive myself.

22 So when I was about to get up and get in my truck,
23 they came back up the street shooting some more. So I
24 dove back behind my truck again.

25 Q So your testimony is there was an initial -- initial

1 shots that you heard?

2 A Yes, sir.

3 Q There was a break?

4 A Yes, sir.

5 Q And then a few more shots?

6 A Yes, sir.

7 Q Okay. After the final shots you hear, what do you
8 do?

9 A After the final shots I hear, then I see Red come
10 from -- I mean Mr. Young come from wherever he came from.
11 And I told him, Man, I'm not waiting on no ambulance. I'm
12 losing blood. Get in the car. Let's go.

13 Q All right. Does anybody else get in the car with
14 you?

15 A Yeah. When we was backing out, here comes James
16 Kilgore around the tree. And he said, Man -- Cuz, I've
17 been shot, too. Let me ride.

18 Q All right. Is he on the phone?

19 A Yes, sir. He was calling the ambulance then.

20 Q All right. So how far from the time Mr. Hull is shot
21 until the time Mr. Kilgore gets in the car? Is it a short
22 time?

23 A Right then -- because by the time we got in the
24 car -- like I said, I had to wait again because they came
25 back up with some more shots. So when we was backing up,

1 James immediately came out from around the tree and said,
2 I need to go, too. So I would say about three minutes.

3 Q All right. But he's on the phone with 911 at this
4 time?

5 A Yes, sir, already.

6 Q Okay. He was already on the phone before he ever got
7 to your car?

8 A Yes, sir.

9 Q Okay. Now, when the police first came and talked to
10 you at the hospital, you were reluctant to tell them what
11 happened; is that correct?

12 A Yes, sir.

13 Q Can you tell us why?

14 A At the time, I had a small son and one that hadn't
15 been born yet. And I feel that, like, you know, he was
16 going to tell it -- you know what I'm saying? -- people
17 going to go and mess with your family while I'm down. And
18 you can't really do nothing to defend nobody.

19 Q But, ultimately, a few days later, you told the
20 truth?

21 A Yes, sir, I did.

22 Q And why'd you have a change of mind?

23 A Because I'm up and ready now. And I had to go ahead
24 and release the truth, because I couldn't hold it in.

25 Q Were you going to take care of it yourself, at first?

1 A Yes, sir, I was.

2 Q Okay. Now, when -- you tell the officer, at first,
3 you don't know who shot you, or who was shooting at
4 Mr. Hull; is that correct?

5 A Yes, sir.

6 Q But then, finally, you come back and interview with
7 Mr. Gary three days later. Why did it take you three days
8 to get to your interview?

9 A Because my leg was seriously injured. And it was,
10 like, an open wound. Because the one at the top where it
11 went through the back of my leg, it closed up pretty good.
12 But the one at the bottom, it was open about this wide.
13 And I couldn't really walk too good.

14 Q Were you on pain killers?

15 A Yes, sir, I was.

16 Q Were you on antibiotics?

17 A No. They just gave me painkillers.

18 Q Did you have insurance?

19 A Oh, yes, sir, I did.

20 Q Okay. You, finally, come to Investigator Gary and
21 you tell him what happened at the scene; correct?

22 A Yes, sir.

23 Q All right. Can you look at the jury one time and
24 tell me who shot Robert Lee Hull?

25 A Holmes Davis-Simpson [sic].

1 Q And where is he seated today?

2 A He's sitting right over there.

3 Q And where did you see him shoot him?

4 A He shot him -- he swung the gun across my face and
5 shot him, like, somewhere in here.

6 MR. HUNTER: Please answer any questions Mr. Thompson
7 may have for you.

8 THE WITNESS: Yes, sir.

9 MR. THOMPSON: May it please the Court.

10 CROSS-EXAMINATION

11 BY MR. THOMPSON:

12 Q Mr. Brewton, you indicate that Mr. -- you said
13 Mr. Davis is right in here?

14 A Yes, sir.

15 Q Okay. And you indicated, also, that when Mr. Hull
16 was shot, he went down face first; right?

17 A Instantly.

18 Q And so when you saw Mr. Hull, he was not in that
19 position there; correct?

20 A When I seen him, he went straight down to his face.

21 Q So that's -- he's on his back there. Would you
22 agree?

23 A Yes, sir. I agree that he's on his back.

24 Q And do you recall in the hospital speaking with
25 Investigator Clark? Do you recall an officer coming to

1 speak to you in the hospital?

2 A Investigator Gary.

3 Q Okay. Was that at the hospital?

4 A Yes, sir.

5 Q Do you remember when they were talking to you, you
6 went ahead and said that you recognized one of the
7 shooters as Little Man?

8 A Mr. Clark.

9 Q Mr. Clark. Do you -- do you remember telling them
10 that?

11 A I said he was out there. I don't remember saying
12 that he was the shooter.

13 Q Okay. And, at that point, you didn't know
14 Mr. Simpson-Davis at all?

15 A No, sir.

16 Q So in the three days before you went and gave your
17 statement to Investigator Gary, how often did you speak
18 with Mr. Kilgore?

19 A We was gathered at our families house because we was
20 going to celebrate Big Boy's funeral. Because, you know,
21 you're supposed to celebrate when somebody leaves. But,
22 at the time, it's sad.

23 Q Okay. So you spoke with him throughout those three
24 days?

25 A Yes, sir.

1 Q And is he the one that gave you Mr. Davis' name?

2 A Yes, sir.

3 Q Okay. I'm going to go back to -- you go to the
4 liquor house. And had you been there before?

5 A Yes, sir, several times.

6 Q And you said that you, Mr. Hull, and Mr. Kilgore are
7 all related?

8 A Yes, sir.

9 Q Are y'all related to Mr. Clark?

10 A Felshunti Clark?

11 Q Yes.

12 A No, sir.

13 Q But you've indicated that -- well, at some point,
14 you've known him his whole life?

15 A Yes, sir.

16 Q And prior to this incident, you had never seen him --

17 A No, sir.

18 Q -- that you remember, Mr. Davis?

19 A No, sir.

20 Q Okay. And so when you say you're "getting wasting,"
21 drinking heavily?

22 A I'm drinking.

23 Q Okay. No drugs?

24 A No, sir.

25 Q Anybody else doing drugs over there?

1 A I can't recall nobody else, only myself.

2 Q All right. And you stayed out of all the riffraff
3 that was going on?

4 A I didn't know anything was going on. I came to have
5 a good time.

6 Q Okay. Now, when you go back across -- you had to go
7 back across Howard Street to get your car?

8 A Yes, sir.

9 Q All right. And that's where your uncle lives?

10 A Yes, sir.

11 Q And Mr. Hull never gets in the car. He goes from, I
12 guess, [REDACTED] to [REDACTED] from the liquor house to Ms. Geter's
13 house?

14 A Yes, sir.

15 Q And he said he had to get something?

16 A He had to get his clothes.

17 Q All right. Now, that was after he had been into it
18 with Mr. Clark at the liquor house, wasn't it?

19 A He was never into it with Mr. Clark at the liquor
20 house.

21 Q Okay. He was into it with somebody, wasn't he?

22 A No. He was trying to break up a fight out there.
23 Like I said, I don't know what went on outside. I was
24 never out there.

25 Q And then you later learned that Mr. Kilgore was

1 breaking up the fight, too; correct?

2 A I guess.

3 Q So you kind of are just getting -- you're ready to
4 go; right?

5 A I'm ready to go. And when I'm ready to go, I'm
6 going.

7 Q So when you return, you pull into the drive here
8 behind that Chevy. That would have been on this side of
9 the driveway?

10 A You're saying when I pulled in?

11 Q Yes, sir.

12 A I pulled straight in right behind the truck. I'd say
13 it was about five feet away from the truck that was
14 already there.

15 Q Okay. And how far off the road do you think your car
16 was?

17 A I can't imagine. Because I didn't measure it, or
18 nothing. But it was up pretty far so I'd have enough room
19 behind me.

20 Q All right. So I'm going to --

21 MR. THOMPSON: May I approach the witness, Your
22 Honor?

23 BY MR. THOMPSON:

24 Q I'm going to show you the diagram the State had
25 yesterday. You -- you pulled in behind this Chevrolet

1 pickup truck; correct?

2 A Honestly, I was about right in here about -- about
3 that far back from that truck.

4 Q So no danger of you hitting Mr. Hull when you back
5 out?

6 A No, sir.

7 Q And then Red -- or Mr. Young drove to the hospital;
8 correct?

9 A Yes, sir.

10 Q And you -- now, you said there were two waves of
11 gunfire?

12 A Yes, sir.

13 Q How much time went by between the two, do you think?

14 A The first time when I was about to get up after the
15 first wave, like I said, I was about to get in my
16 passenger side and crawl over to my driver's side. And I
17 then came up. I'd say it was about, like, 30 seconds, 45
18 seconds to a minute. And then they came back up the
19 street shooting.

20 Q Now, did you see people coming back up the street, or
21 were -- just their gunfire coming down the street?

22 A I was behind my car. So I can't say I seen the
23 second wave. Whoever was shooting, I don't know. I was
24 ducked down.

25 Q But you do recall one witness testifying that

1 somebody was --

2 A I didn't see it. I heard it.

3 Q Okay. So you didn't really see the people coming
4 back. Between that time period, had Mr. Hull been shot --
5 was he shot during the first wave or the second wave?

6 A First.

7 Q And you said -- you said he shot twice -- he was shot
8 twice?

9 A Yes, sir. I said he fired his gun twice. I don't
10 know how many times he got hit. But I know he got hit on
11 the first shot and he dropped down.

12 Q And it sounds like you were the one trying to be the
13 level-headed one in all this. Does that sound right?

14 A Yes, sir, I was.

15 Q And I think you -- in your statement, you said that
16 you had the -- you had it situated, I believe, or
17 something?

18 A Something like that.

19 Q You had them cooling off; right?

20 A Yeah. It was kind of calming down.

21 Q Do you recall if you were hit during the first wave
22 or the second wave?

23 A It was the first wave after I started running.

24 Q So you get both -- both injuries on the first wave?

25 A Yes, sir.

1 Q All right. And then before that, you said that
2 Mr. Hull -- I mean, is -- Mr. Kilgore and Mr. Clark were
3 out in the street behind your car?

4 A Well, yeah. They was like behind my car, but a
5 little over to the side.

6 Q Okay.

7 A Like the driveway was -- like a little over.

8 Q Over to the other side; right?

9 A Yes, sir.

10 Q So with that going on -- now, Mr. Kilgore is a little
11 older than Mr. Clark; right?

12 A I guess.

13 Q You think. Okay. So they are -- do you recall
14 telling the investigator that Mr. Clark said something
15 about a one-on-one?

16 A Yes, sir. They was talking about fighting.

17 Q Talking about fighting?

18 A Fighting. On-on-one, one round, two rounds, 15
19 rounds.

20 Q Okay. They weren't talking about anything but
21 fighting. And then once you get that situation addressed,
22 do you guys move back?

23 A Yeah. We was on our way out. I was about to start
24 walking to my car. And they was about to go their way as
25 well, I guess.

1 Q And then you indicate that Mr. Hull comes out?

2 A Yes, sir.

3 Q Where was he during that first altercation between
4 Mr. Kilgore and --

5 A I guess he was still at the liquor house. Because,
6 like I said, now, my back is to the -- I'm facing the
7 street. So my back is that way. So I can't see who's
8 coming behind me.

9 So I guess he might have came over from the liquor
10 house, got his stuff, put on his shoes. And then he came
11 out there to join in.

12 Q All right. And do you recall -- in the statement you
13 gave to Investigator Gary, do you remember --

14 A Which part?

15 Q The part where Mr. Hull goes back out to that crowd.

16 A He -- I never said he went back out. He went out
17 there. He never was out there, then left, and came back.
18 That was his first time coming out.

19 Q Oh, okay. So he was out there when you were out
20 there?

21 A No, sir. He was over at the liquor house. The way
22 you said it, like, he was already out there and left, then
23 came back.

24 Q No, no, no. I -- I apologize. He -- you kind of --
25 you guys were kind of falling back?

1 A Yes, sir. We was kind of falling back. Robert had
2 not came out there yet.

3 Q Okay. So did Robert pass you when you were getting
4 in the car?

5 A I never did get to make it to the car.

6 Q Okay. So Robert ran by you?

7 A Yes. He ran right up by me, like, right beside me.

8 Q And you indicated in here that you started to go back
9 to the car after you got everything situated?

10 A Well, I thought I had it situated.

11 Q If you could, I'm going to let you read this to the
12 jury. And -- and tell me if that's accurate. Because
13 this came from the recorded statement.

14 MR. THOMPSON: If I may approach the witness.

15 THE WITNESS: Which part?

16 BY MR. THOMPSON:

17 Q Right here. He asked you, When you go back to the
18 car, what happened?

19 A Oh, you want me to read this out loud?

20 Q Yes, if you don't mind. Just make sure...

21 A I don't -- we started to go back to the car after
22 everything -- after I got everything situated. They was
23 going to let us go. And my cousin, Robert Hull, then ran
24 off the steps in front of Holmes -- the Holmes guy and was
25 telling him, F your guns, F your guns. You ain't the only

1 one who got guns. And he said, I'm getting my gun. And
2 after that, they said -- they started shooting.

3 Q Okay. So you indicate on this statement you're
4 walking back to the car; correct?

5 A I'm about to start backing up, yes, sir.

6 Q And then Mr. Hull confronts them about their guns
7 indicating he's got a gun?

8 A Yes, sir.

9 Q He's going to get his -- I'm getting my gun; right?

10 A He said he was. But we didn't have no weapons.

11 Q And then you indicated that they were -- or somebody
12 was bumping chests, or pushing --

13 A Holmes Simpson-Davis and Big Boy because -- Robert
14 Hull. Because Robert going to take a fight up. He don't
15 care about no guns, no fear in him at all. And he was
16 just bumping up to him. And Holmes was bumping back to
17 him. And I guess Holmes got tired of the bumping. So he
18 started shooting.

19 Q And how long did they bump chests?

20 A About maybe two or three times. And it was a heated
21 argument.

22 Q Did you hear anything that was said?

23 A No, sir. The only thing I heard was my cousin say,
24 Forget y'all guns. You ain't the only one with a gun.

25 Q All right. And he -- he went towards

1 Mr. Holmes [sic] then?

2 A They was face-to-face. Like I said, they were
3 bumping into each other.

4 Q And so, at some point, you move from the porch out
5 there?

6 A Yes, sir. After I got a light for my cigarette.

7 Q Right. And -- and you're trying to diffuse this
8 thing?

9 A I was.

10 Q Okay. And once you got it diffused -- now, that's
11 what I want to know. Was Mr. Hull with you when you
12 diffused the situation?

13 A No, sir. He was not.

14 Q Okay. He was coming from the liquor house to --

15 A I guess. I had my face this way. So my back is to
16 the house now.

17 Q Okay. But you said earlier he changed shoes?

18 A I guess -- I said I guess he came over there and
19 changed his shoes, and got his belongings.

20 Q He got his what?

21 A Belongings, clothes, shoes, et cetera.

22 Q So he didn't live there. You were taking him home?

23 A Yes, sir. I was going to take him home.

24 Q All right. At any time after you were shot, did you
25 run up to the steps or on the porch?

1 A I didn't go nowhere. I stayed down to try to get
2 myself to the hospital. Because I was going to drive
3 myself.

4 Q And that's when Red came around from behind the
5 house --

6 A After the second wave of shots, then he came around.

7 Q All right. So, at any time, did you check on
8 Mr. Hull, or did anybody?

9 A No, sir, I did not. My cousin was already down. We
10 knew he was injured badly. Like I said, when I did get
11 ready to drive the car, James Kilgore -- or Mr. Young to
12 drive the car, James Kilgore was already on the phone with
13 the ambulance letting them know that one is down, injured
14 badly. And we're coming to the hospital.

15 Q So I believe you indicated that Mr. Hull wasn't
16 scared of a fight?

17 A No, sir.

18 Q At that -- are there any street lights in there near
19 that liquor house?

20 A Just a couple up and down Howard Street. But
21 they're, like, spaced out.

22 Q The liquor house doesn't advertise. They don't have
23 a neon sign, do they?

24 A No. But in the parking lot, there is a big, like,
25 street light that you have to pay for out there, like, on

1 a pole. There is a light out there.

2 Q Okay. Do you know if they had it turned on, or not?

3 A No, sir.

4 Q I think you indicated, at one point, it was dark and
5 you couldn't see their faces. Do you remember that?

6 A I can't recall it. But you can show it to me,
7 though.

8 MR. THOMPSON: If I may approach one more time, Your
9 Honor.

10 BY MR. THOMPSON:

11 Q Right here. Basically, you -- you seen Little Man
12 and JJ out at the street [inaudible] --

13 THE COURT REPORTER: Judge, I can't hear him.

14 THE COURT: Excuse me just a minute.

15 Mr. Thompson, you've got your back to the court
16 reporter --

17 MR. THOMPSON: I'm sorry.

18 THE COURT: -- and she can't hear you or any answer
19 that Mr. Brewton gives.

20 MR. THOMPSON: All right. I'm -- I'll just let him
21 read it aloud.

22 THE WITNESS: I said, Little Man, my cousin, JJ, was
23 out in the street. I seen the guy, Holmes, who already
24 had his pistol out. And I seen a couple of more guys.
25 But, like I said, it was dark. So I can't see their face.

1 But I really can't remember, unless I see a photo.

2 BY MR. THOMPSON:

3 Q Okay.

4 A But right there, it mentions that I seen Clark and
5 Holmes Simpson.

6 Q Right. But you indicated -- also, indicated that you
7 couldn't make out the other guys because it was dark?

8 A I don't even know the other guys.

9 Q And you testified you didn't know my client?

10 A I said I didn't know him as well.

11 Q All right. So you guys get in the car immediately
12 and take off?

13 A It wasn't immediately. After the second wave of
14 shots, we made sure that everything was -- they had
15 stopped shooting. And then we got in my car..

16 Q Did you ever try to put Big Boy in the car?

17 A No, sir, I did not. He's laying there motionless.
18 And you're not supposed to move anybody that's injured.

19 Q Did -- you testified that he -- he went down on his
20 knees, I believe?

21 A No. I said he fell straight down.

22 Q Face first?

23 A Yes, sir.

24 MR. THOMPSON: I have no further questions.

25 MR. HUNTER: No questions from us, Your Honor.

1 THE COURT: You may step down.

2 All right. We'll break for lunch. Remember my
3 caution, no discussions, no research, no investigation, no
4 type of media exposure. Do have a good lunch.

5 Please report to your jury room at 2:30, 2:30 this
6 afternoon.

7 If you want to, just leave your notepads in the jury
8 room.

9 (WHEREUPON, the jury was excused from open court at
10 approximately 12:46 p.m.)

11 THE COURT: Court is in recess until 2:30.

12 (WHEREUPON, a lunch break was taken.)

13 THE COURT: All right. Are we ready for the jury?

14 MR. HUNTER: Yes, Your Honor.

15 I have asked the family, due to this next witness, to
16 stay outside during this next witnesses testimony since
17 it's Dr. Wren, Your Honor. So that's why no one is
18 here --

19 THE COURT: Since what?

20 MR. HUNTER: It's Dr. Wren. And some of the
21 testimony he's going to give might cause some emotion --

22 THE COURT: Oh, okay.

23 MR. HUNTER: -- so I've asked them to stay outside
24 for his testimony?

25 THE COURT: Okay.

1 MR. HUNTER: And I would like to bring them back in
2 afterwards.

3 THE COURT: All right. Well, he's the last witness?

4 MR. HUNTER: He is, Your Honor.

5 THE COURT: Bring the jury in, please.

6 (WHEREUPON, the jury came into open court at
7 approximately 2:49 p.m.)

8 THE COURT: All right. The jury is present.

9 Mr. Foreman, I have your note that you sent out by
10 way of the bailiff. And no juror need worry about weekend
11 commitments. Let's don't worry about anything until it's
12 time to worry about things. And I'll let you know when
13 it's time to worry.

14 All right. You may proceed.

15 MS. MABBS: Thank you, Your Honor.

16 The State would call Dr. Wren.

17 WHEREUPON,

18 JOHN DAVID WREN, M.D.,
19 after first having been duly sworn, testified as follows:

20 THE CLERK: Thank you.

21 Have a seat.

22 DIRECT EXAMINATION

23 BY MS. MABBS:

24 Q Dr. Wren, can you, please, introduce yourself to the
25 jury?

1 A My name is John David Wren.

2 Q And where do you work, Dr. Wren?

3 A I'm a pathologist. I work for Carolinas Pathology
4 Group. And I'm the -- the laboratory medical director at
5 Spartanburg Regional, Spartanburg Hospital for restorative
6 care, Grove -- North Grove Laboratory -- it's part of the
7 hospital -- and several inside specific areas in the
8 hospital. I'm, also, an anatomic pathologist.

9 Q So does that mean you're licensed to practice
10 medicine in the state of South Carolina?

11 A Yes. Since February of 1979.

12 Q Can you tell us a little bit about your educational
13 background and any certifications you may have?

14 A Well, I have a bachelor's degree, a master's degree,
15 and a Doctor of Philosophy Degree in Chemical Engineering
16 from Clemson University. I worked for five years in the
17 chemical industry. And then I went to medical school. I
18 graduated in three years and three months from the Medical
19 University of South Carolina.

20 I went directly into my residency in pathology. I
21 finished the equivalent of seven years of work with some
22 work that I had done in my research both at the -- at
23 Clemson and at the medical university, basically, in
24 biological systems. So I finished seven years worth of
25 residency in three years and 10 months.

1 Q And, Dr. --

2 A I then came to work at Spartanburg Regional with
3 Spartanburg Pathology Associates at that time. I took my
4 boards in anatomic pathology in 1983, and passed those on
5 the first attempt. I waited until 1987 to take my
6 clinical pathology boards. I passed those. I'm board
7 certified in anatomic and clinical pathology.

8 While I was a resident at the medical university, I,
9 also, was an assistant medical examiner for Charleston
10 County. They had a medical examiner-type system there.
11 At that time, starting in 1980, after I had done my
12 forensic pathology rotation, which was a three-month
13 rotation, I started, actually, doing autopsies one weekend
14 a month at the forensic pathology department while I --
15 while I was a resident under the supervision of the
16 forensic -- board-certified forensic pathologists that
17 were there. I did over a hundred while I was there, and
18 testified in lots of the counties in South Carolina.

19 I did finish enough work to where I was qualified to
20 take the boards. But I never got around to it being
21 what -- the other stuff I was doing. But I am qualified
22 to -- as an expert in forensic pathology, based on
23 experience.

24 Q And, Dr. Wren, do you belong to any specialized --
25 either medical or scientific groups or associations?

1 A Currently, I am a member of the American Board of
2 Pathology and American Institute of Clinical Pathology.
3 Of course, I'm a member of the South Carolina Medical
4 Society, and those things, and Spartanburg County Medical
5 Society, too. I dropped my fellowship in the American
6 Institute of Chemical Engineering, because I wasn't
7 practicing that after a while.

8 Q Dr. Wren, in your role as a pathologist, do you have
9 the opportunity to perform autopsies?

10 A Yes. I've been doing autopsies since February of
11 1979 when -- actually, it was 1977 in the summertime, I
12 did one of several as a medical student rotation. I've
13 done about 6,000 in my career.

14 Q And, Dr. Wren, have you ever been qualified by courts
15 in South Carolina as an expert before?

16 A Yes. Some of the counties I've been qualified as an
17 expert is Anderson, Greenville, Spartanburg, Cherokee,
18 Union, Lancaster, Newberry, Greenwood, Laurens,
19 Orangeburg, Lexington, then some along the coast,
20 including Charleston and Beaufort, Dorchester, Berkley,
21 Horry, and Dillon.

22 MS. MABBS: Your Honor, at this time, the State would
23 offer Dr. Wren as an expert in the field of forensic
24 pathology.

25 MR. THOMPSON: No objection.

1 THE COURT: He is so qualified.

2 MS. MABBS: Thank you, Your Honor.

3 BY MS. MABBS:

4 Q Dr. Wren, do you recall the body of a 37-year-old man
5 named Robert Hull being brought to Spartanburg Regional
6 back in July of 2015?

7 A Yes. I did an autopsy on Robert Lee Hull on July the
8 25th of 2015, beginning at approximately 10:45 a.m. at
9 Spartanburg Regional Hospital autopsy room.

10 Q And can you tell us a little bit about the procedures
11 you did during that autopsy?

12 A A general forensic pathology includes a brief history
13 from the investigating coroner's investigator. Sometimes,
14 I talk with the -- particularly on homicides, I talk with
15 the investigating police authorities to get a brief idea
16 of what happened, so it -- I won't -- just won't have
17 anything written down. I do a brief synopsis, which is
18 not always correct. But, at least, it's what they told me
19 at the start, or as I understood it.

20 Then I describe the clothing, how they're, actually,
21 presented in -- in the morgue. And any extraneous
22 material that was on them, I remove for evidence. Then
23 I -- after I do that, we take the clothing off. Then we
24 do an external description. If the body has to be cleaned
25 and washed, we do that.

1 And then I do a complete external description after
2 removing anything that might be in the way. And after I
3 do that, I open the body and look at all the internal
4 organs, and remove any evidence from inside, sample
5 tissues to look at and to preserve.

6 Q And, Dr. Wren, in this case, when you did that
7 external exam of this body, did -- how many wounds did you
8 observe?

9 A Well, he had -- he -- the most obvious wound was a
10 gunshot wound to his left mandible area. There was
11 swelling there, a little bit of hemorrhage. It looked
12 like a distant wound.

13 He, also, had a scratch type of abrasion of his --
14 well, he had some bone palpable in his neck. And he had a
15 small -- less than an inch abrasion on his upper left
16 thigh. And he had a couple of abrasions on his index and
17 middle finger of his right hand. They were minor
18 injuries.

19 Q And, Dr. Wren, a moment ago you said a distant
20 gunshot wound. Can you explain to us what you mean by
21 that?

22 A Well, gunshot wounds are, actually, described as --
23 they're generally described. But there are three types of
24 gunshot wounds with subclassifications of each. The most
25 obvious one when one's doing an autopsy is either a

1 contact gunshot wound. And they are classified either as
2 tight contact or loose contact.

3 The best way to explain those is if someone shoots
4 someone with a weapon and they press it up against the
5 skin tightly as the burning gases and -- come out of
6 the -- and powder comes out of the barrel, it, actually,
7 goes into the hole that's produced as the bullet came out.
8 And when that happens, it's trapped under the skin. And
9 to escape, it has to get back out. So it tears its way
10 back out of the skin.

11 So instead of having a nice round wound or an oblique
12 wound, you will have an astelic [phonetic] wound it's
13 called. But you can always put it back together, usually,
14 and see that there was a hole there. That was tight
15 contact.

16 Now, if it's loose contact, it's close enough to the
17 skin to sometimes cause that. But more than likely, it
18 just burns the skin if the barrel is up against it at an
19 angle. One side may be burned. And it, usually, doesn't
20 have that astelic appearance. Now, those are the contact
21 wounds.

22 The next classification are intermediate wounds.
23 Now, intermediate wounds are wounds that -- depending on
24 the person and depending on whether they have dark or
25 light clothing. As the burning powder and soot comes out

1 of barrel, it will actually -- as it hits skin -- as the
2 burning powder hits the skin, it does what's called
3 stippling or tattooing, and it'll, actually, burn little
4 punctate areas around the wound. If the skin is,
5 actually, perpendicular to the path of the bullet, it will
6 be concentric around there. But if the face -- the part
7 of the body is turned at an angle, one side will be
8 distorted because it's closer than the other side.

9 So you would measure the smaller area to decide how
10 far away it was. That -- if you have the -- actually,
11 the -- and then -- I forgot to tell you. Then the -- as
12 the soot comes out, it does the same way. So it'll spread
13 as it -- as it leaves the barrel just in a concentric
14 circle. And one can see powder -- I mean soot if it's a
15 large enough caliber. You can see it on the skin, too,
16 and on clothing.

17 Now, if it were a contact gunshot wound on the
18 clothing, you'll see the soot -- instead of a round hole
19 on the clothing, you'll see a torn area.

20 SLED can take the same gun with similar ammunition
21 and they can, actually, put the barrel and fire the gun
22 right up against the -- a white target and then back up
23 until they don't see any more evidence of the burning
24 powder hitting it, or the soot hitting it. And they can
25 tell how far away it was if it was intermediate by

1 comparison.

2 Anything past where you don't see any tattooing or
3 soot deposition is classified as distant. Basically, you
4 can't tell how far away the bullet -- the weapon was at
5 that time. Because there's no evidence that you can --
6 that you can correlate it to. As far as the bullet will
7 travel with some speed is how far it could be away.

8 So there's contact, which are looser, tight contacts.
9 There's intermediate range, and then distant.

10 Q So distant doesn't necessarily mean that it's, you
11 know, 50 feet away. It could be --

12 A It could be in a -- in a handgun, it could be -- I
13 think the most it can be is 10 to 12 inches to be
14 intermediate. So it could be 14 inches away, or it could
15 be 200 feet away, depending -- depending on where it was
16 fired from.

17 Q And while you were doing this external examination
18 and saw that bullet wound, did you have the opportunity to
19 take any pictures?

20 A Yes -- well, I don't take pictures. The police
21 evidence officer takes pictures, as well as the coroner.
22 If I see something that I want particularly a picture of,
23 I will tell them, direct them. But they've gotten used to
24 taking the ones that are usually necessary.

25 Q Dr. Wren, I'm handing you what's been pre-marked as

1 State's Exhibit No. 9. Do you recognize that image?

2 A Well, it's the gunshot wound I described. And I've
3 done about three hundred since then. So I can't tell you
4 I absolutely know who this is.

5 Q Okay. Would that be a fair and accurate depiction --

6 A Yes.

7 Q -- of the wound?

8 A Yes.

9 MS. MABBS: Your Honor, the State moves State's
10 Exhibit No. 9 into evidence.

11 MR. THOMPSON: I'll object to the probative value.
12 We're not disputing it's a gunshot wound that led to this
13 gentleman's death. I don't know that it needs to be
14 published to the jury.

15 THE COURT: Well, let me see the photograph.

16 (Pause.)

17 THE COURT: It's admitted over objection.

18 MS. MABBS: Thank you, Your Honor.

19 (WHEREUPON, State's Exhibit No. 9 was admitted into
20 evidence.)

21 BY MS. MABBS:

22 Q Dr. Wren, can you explain to the jury what we see in
23 this photograph?

24 A I described this individual as he had a graying short
25 black moustache and goatee with an extension to the

1 sideburns and to the goatee along the angle of the jaw.

2 This -- that's my external description.

3 He had a gunshot wound in the left mandible area.

4 And one can see that this wound is relatively round. It

5 measured .36 inches in diameter. I'll address that in

6 just a moment. It appeared seven and a quarter inches

7 from the top of his head, and 1.25 inches to the left of

8 the midline.

9 On that wound, there was an abrasion border from

10 about 10:00 around to 1:00. So the bullet would,

11 actually, hit this part of his skin first. And it was

12 going downward. It was going toward the back. And it was

13 going from right -- his right to his left. That abrasion

14 border, there's a little bit of an indication of how the

15 bullet went in. It measures .15 inches or 15 hundredths

16 of an inch in width. And that maximum area was about at

17 10:00.

18 Now, this -- this picture was taken a little bit

19 below him. So it looks a little bit distorted from the

20 angle it's taken at. As it passed in, it hit his mandible

21 and was deflected further downward, and went through the

22 tissues of his neck, fractured his third cervical

23 vertebra, and came to rest against the spinal cord in his

24 fourth cervical vertebra, which I took out after I'd taken

25 the tissues out of the neck.

1 Q And, Dr. Wren, how are you able to determine, I
2 guess, the trajectory of that bullet through his --

3 A Well, you can usually pass a probe through there. In
4 some cases, you have to maybe move the head around
5 because -- or -- because you don't know exactly the
6 position the person was in. It will leave a tract,
7 particularly some kinds of them.

8 But we, also, take X-rays. Because depending on the
9 diameter of the bullet, it's very hard to find some that
10 are in muscle, particularly the small caliber ones.
11 They -- you just can't feel them. And, sometimes, we have
12 to take multiple X-rays to locate the bullet itself.

13 Q And, in this case, did either you or someone at your
14 direction take X-rays?

15 A We always take X-rays now at the -- in the morgue.

16 Q Dr. Wren, I'm handing you what's been marked as
17 State's Exhibit No. 2. Do you recognize that?

18 A This is one that I described, yes.

19 Q And is that a fair and accurate depiction of the
20 injuries you observed?

21 A Yes.

22 Q And what do the markings on -- I believe it says
23 postmortem on there. What does --

24 A It says, Postmortem and portable cross table. It's
25 got -- I don't know what these numbers refer to, but it's

1 61/75/100. It must be some type of indication of
2 settings. And then it has a scale on the side of 10
3 centimeters, a scale in case you want to know -- compare
4 the X-ray -- some part of the X-ray to a measurement.

5 MS. MABBS: Your Honor, at this time, the State would
6 move State's Exhibit No. 2 into evidence.

7 MR. THOMPSON: No objection.

8 THE COURT: It's admitted.

9 (WHEREUPON, State's Exhibit No. 2 was admitted into
10 evidence.)

11 BY MS. MABBS:

12 Q Dr. Wren, can you explain what we're seeing in this
13 X-ray?

14 A This is a side view of Mr. Hull's skull and upper
15 chest area, as well as his cervical spine. One can see
16 that as the bullet went in, it fractured the lower portion
17 of the -- of the mandible. And it went through there and
18 it hit the top of the third cervical vertebra and came to
19 rest in the fourth one.

20 Q And, Dr. Wren, on this X-ray, there's, I guess,
21 various areas that --

22 A Then there's some fragments of bone, if that's what
23 you're referring to.

24 Q Yes. I was just wondering what the -- I guess the
25 more white sections are. I don't know how else to

1 describe --

2 A It's the same density as the bone. You can tell
3 where the bone is, and, of course, the bullet is, too. So
4 there's probably a few fragments. These smaller fragments
5 may be fragments of lead.

6 Q And, Dr. Wren, during your autopsy, did you remove
7 the bullet?

8 A Yes, I did.

9 Q And what did you do once it was removed?

10 A I measured it. It measured -- I'll give these
11 measurements in hundredths of an inch, 78 hundredths by 66
12 hundredths by 48 hundredths with a base of 45 hundredths
13 of an inch in diameter. So this was a large caliber
14 bullet.

15 Now, if you remember, when I said the size of the
16 hole was only 36 hundredths of an inch, one cannot tell
17 from the size of a -- a defect in the skin the exact size
18 of the bullet. Because as a bullet passes in, the skin
19 can either be loose, or it can be stretched.

20 So, therefore, if you had a one-inch diameter
21 projectile that went in someone, the variation could be
22 plus or minus 25 percent. In other words, that hole -- if
23 you would call it that -- can vary from 75 one hundredths
24 to 1.25 inches in diameter and be made by the same
25 projectile, depending on the tenseness or the looseness of

1 the skin as it went in.

2 Q So when --

3 A So, in his case, it was probably tenser than it
4 was -- because the bullet -- no. I'm sorry. Yeah.

5 That's right. It was probably stretched somewhat when it
6 went in. Because the hole when it relaxed was -- was
7 25 percent -- about 20 percent less than the size of the
8 bullet itself.

9 Q So when you say "bullet," you're referring to -- to
10 this hole?

11 A Yes.

12 Q And, Dr. Wren, I'm showing you State's Exhibit
13 No. 56. Would that be the bullet that you removed from
14 Mr. Hull?

15 A Well, you asked me what -- what I did with it. I --
16 I labeled it with an Arabic number six and a Greek letter
17 Delta, which they're easier to make than -- than -- on
18 bullets because they're pretty hard.

19 And this one has, actually, come apart. It's a
20 fragment of a copper-jacketed lead bullet. And I labeled
21 it with the autopsy number on the container here, which is
22 FA15136. And I put, See spine. I dated it. I signed it
23 and dated it as 7/25/15 at -- 12:20 p.m. was when I
24 removed it. I can't get it out of this container.

25 Q That's all right, Dr. Wren. You don't need to --

1 A But, anyway, I did label it at the bottom. This is
2 consistent with one that I took out.

3 Q Now, Dr. Wren, based off of your autopsy and your
4 experience in the field, to a reasonable degree of medical
5 certainty, were you able to form an opinion as to the
6 cause of Mr. Robert Hull's death?

7 A Yes. I simply attributed it to traumatic injury to
8 the cervical spinal cord, secondary to a gunshot wound to
9 the head in the lower face. He had a traumatic concussion
10 of his spinal cord. It -- actually, the mechanism of
11 death was that it stopped all nerve impulses from going up
12 and down either from the trauma or the concussion. And it
13 stopped his nerve impulses long enough for him to pass
14 away.

15 Q And so this would be, I guess, an instantaneous
16 death?

17 A Basically, yeah.

18 MS. MABBS: Thank you, Dr. Wren.

19 Please answer any questions Mr. Thompson has.

20 MR. THOMPSON: May it please the Court.

21 CROSS-EXAMINATION

22 BY MR. THOMPSON:

23 Q Briefly. The fourth vertebra -- you said at the
24 fourth vertebra is where it rested next to the spine;
25 correct?

1 A As the spinal cord comes out of the base of the
2 brain, it passes through seven cervical vertebra, 12
3 thoracic vertebra, and then there are five lumbar
4 vertebra. So if you start at the base of the skull, you
5 just count down four and it's the fourth one.

6 Q So that bullet went down into the neck back here
7 somewhere?

8 A Well, it -- well, the base of the skull is up sort of
9 behind your ears. And the cervical vertebra stop at the
10 base of the -- at the neck here. So you've got seven in
11 there. And so it went in and went down and hit the third
12 one as it was going past it, and then hit the fourth one
13 and lodged in the vertebra itself.

14 Now, I don't remember exactly whether it was front or
15 back, how far back in there it went. But it was -- it did
16 impact the spinal cord itself.

17 Q Can you point it out --

18 MR. THOMPSON: May I approach the witness, Your
19 Honor?

20 THE COURT: Yes.

21 BY MR. THOMPSON:

22 Q Can you point it out exactly -- is that vertebra
23 in -- in that photograph -- or the X-ray?

24 A Well, this is a side view. That's it. It looks like
25 it's -- here, it looks like it's on that side. So it --

1 yeah, I think it went through it. And -- but it left a
2 hole there.

3 Q So when it -- so when it traveled downward, you said
4 it was a downward --

5 A Well, it was going down. You can see --

6 Q All right.

7 A -- it's going down at about 15 degrees maybe.

8 Q Thank you.

9 And can --

10 A But when you say that, you don't know where his head
11 was. Because your head will rotate up, and down, and all
12 around. So you can speculate lots of positions that it
13 could take that -- that angle as it went in. He could
14 have been leaning forward with his head like this and it
15 went in, or he could have been standing and it could have
16 gone in. He could have been laying on the ground and it
17 could have gone in the same way.

18 Q Right. And --

19 A It just depends on where the barrel of the gun was in
20 relation to the head.

21 Q Okay. And can the mandible bone alter the -- the
22 path of the bullet?

23 A It depends on where it hits it -- how high it hits
24 it. Yes, if it hits the curved area of the bone and it --
25 it would be like a glancing blow. But if it went -- hit

1 straight in, it would go right straight through it.

2 Q And -- and we have no -- no way to infer how far
3 away, except for it had probably more than 14 inches on
4 the distance?

5 A Oh, definitely more than 14 inches, yeah. Well,
6 probably 45 as the upper limits of the size of how far
7 they were spread. Probably, at least, 12 inches.

8 MR. THOMPSON: I have no -- no further questions.

9 MS. MABBS: Nothing further, Your Honor.

10 THE COURT: You may step down.

11 MS. MABBS: May Dr. Wren be excused?

12 THE COURT: You may be.

13 Thank you.

14 MR. HUNTER: Your Honor, at this time, the State
15 would rest.

16 THE COURT: Ladies and gentlemen, that is all of the
17 testimony or other evidence to be offered by the State, at
18 least, in their case in chief. Before we go further, I've
19 got some matters I'll need to address with the lawyers.
20 So I'll do that now. And then we'll bring you back to
21 continue.

22 So, please, go to your jury room. But do not discuss
23 the case.

24 (WHEREUPON, the jury was excused from open court at
25 approximately 3:21 p.m.)

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MOTIONS

THE COURT: All right. Any motions or other matters to be addressed before we proceed?

MR. THOMPSON: Your Honor, I'd move for a directed verdict on the attempted murders. Both victims indicated they had no idea who shot them, that they were behind them and couldn't see. Also, there was testimony that the folks running away were shooting behind them.

So I -- that may be some careless behavior by someone, but I don't believe it infers any intent on their part.

So I just request a motion for a directed verdict on those two attempted murder charges.

THE COURT: Ms. Mabbs.

MS. MABBS: Thank you, Your Honor.

Your Honor, as to the attempted murder charges, first, Mr. Brewton, when he testified, stated that he saw the Defendant point the gun at him before the shooting started, Your Honor. Both Mr. Kilgore and Mr. Brewton testified about standing very near Mr. Hull when the shooting started. Obviously, Mr. Hull was shot in the face. Both Mr. Kilgore and Brewton -- Mr. Brewton were shot in the leg.

Your Honor, there -- in addition to the wounds and the fact that Mr. Brewton did testify that he did see the

1 gun pointed at him by the Defendant, there were multiple
2 .45 shell casings that were found at that scene, Your
3 Honor.

4 Mr. Bryson testified as to seeing men shooting behind
5 him, two men. The witnesses have been all consistent in
6 that there were two men at that scene with guns, one of
7 which being the Defendant, Your Honor. By shooting behind
8 them while they're running, he's showing a reckless
9 disregard for human life.

10 Your Honor, there is malice aforethought there by
11 bringing that gun to the scene, by having it out before
12 any -- while there was still just the verbal altercation.
13 And, Your Honor, in addition, the malice for the attempted
14 murders as well -- after he shot Mr. Hull, there is
15 testimony that there was a brief pause before the shooting
16 continued, which the State would -- in the light most
17 favorable to the State would show that there was a
18 conscious decision to continue shooting after that initial
19 shot on Mr. Hull.

20 Your Honor, so as to those specific charges, the
21 State would request that that motion be denied. That
22 there is sufficient evidence in the light most favorable
23 to the State to be sent to a jury.

24 THE COURT: Mr. Thompson, any reply?

25 MR. THOMPSON: I -- I just renew for the lack of

1 intent. And maybe it's reckless behavior by those folks.
2 But, like I said, both defendants [sic] cannot identify
3 who shot. They were quite clear about that. And they
4 were behind a car.

5 And I say -- there probably was, also, evidence that
6 the bullets ricocheted off of the -- off the road. And I
7 would argue that the problem there is that's naturally
8 a -- is going to happen when they're shooting behind them
9 anyway. And that likely it shows some -- some negligence.
10 But I don't know that it shows any intent to attempt to
11 murder somebody. It's -- that's conjecture.

12 THE COURT: Well, considering the evidence in the
13 light most favorable to the State, it does appear that
14 there is sufficient evidence to link this Defendant with
15 the commission of the attempted murders, in addition to
16 the murder itself. And although the shooters were acting
17 in concert, acting together, at least, you could draw a
18 reasonable inference from the evidence in that regard.

19 So your motion for -- and that is substantial
20 circumstantial evidence.

21 So your motion for directed verdict is denied.

22 What else?

23 MR. THOMPSON: Thank you.

24 No further motions at this time.

25 THE COURT: Okay. Have you talked with your client

1 about his right to testify or not testify?

2 MR. THOMPSON: We have discussed that. I would like
3 an opportunity to speak with him since the -- after -- we
4 spoke about it last night. I haven't had a chance to do
5 so today.

6 THE COURT: All right. Do you have other witnesses
7 you intend to call?

8 MR. THOMPSON: It should be maybe four, three, maybe
9 four.

10 THE COURT: All right. We'll take a -- 10 minutes.
11 You can talk to Mr. Simpson-Davis about his right to
12 testify.

13 MR. THOMPSON: Is it okay if he remains in here with
14 me?

15 THE COURT: Well, there'll be other people in here.
16 But you --

17 MR. THOMPSON: We'll -- we'll go out.

18 THE COURT: Okay. Court's in recess for 10 minutes.

19 (WHEREUPON, a break was taken.)

20 THE COURT: All right. Mr. Thompson, did you talk to
21 Mr. Simpson-Davis about his right to testify or not
22 testify?

23 MR. THOMPSON: I did, Your Honor. He has informed me
24 he will not testify.

25 THE COURT: He does not wish to testify?

1 advantages and disadvantages are?

2 DEFENDANT SIMPSON-DAVIS: Yes, I do.

3 THE COURT: And you understand that you have the
4 right to testify if you want to, but only you can make
5 that decision?

6 DEFENDANT SIMPSON-DAVIS: Yes, sir.

7 THE COURT: And you understand nobody can make you
8 testify if you don't want to?

9 DEFENDANT SIMPSON-DAVIS: Yes, sir.

10 THE COURT: Have you had time to reflect upon your
11 decision?

12 DEFENDANT SIMPSON-DAVIS: Yes, sir.

13 THE COURT: And have you made one?

14 DEFENDANT SIMPSON-DAVIS: Yes, sir.

15 THE COURT: And what is it?

16 DEFENDANT SIMPSON-DAVIS: I wish not to testify.

17 THE COURT: Okay. Is that a decision that you made
18 of your own free will and accord?

19 DEFENDANT SIMPSON-DAVIS: Yes, sir.

20 THE COURT: And you've had plenty of time to think
21 about it?

22 DEFENDANT SIMPSON-DAVIS: Yes, sir.

23 THE COURT: And you're satisfied with it?

24 DEFENDANT SIMPSON-DAVIS: Yes, sir.

25 THE COURT: All right. Now, what about the other

1 witnesses, Mr. Thompson? Who are they?

2 MR. THOMPSON: May it please the Court, Your Honor.

3 I would call his father, Mr. Davis, and his sister,
4 Ms. Brittany Davis, and Ms. Patrice Posey. I may have
5 gotten that wrong.

6 And, Your Honor, I'm going to have Agent Jennifer M.
7 Nates from SLED testify.

8 THE COURT: Okay.

9 MR. HUNTER: Your Honor, for the first --

10 MR. THOMPSON: And I would call her first.

11 MR. HUNTER: Your Honor, for the first witness, Agent
12 Nates, we don't have an issue. But the other three, I've
13 never heard that they were at the scene. I'd ask that, at
14 least, the beginning to be proffered. Because, at this
15 time, I don't know what they're going to testify to, as I
16 don't believe they were at the scene and could testify as
17 to anything that was relevant to that night.

18 THE COURT: Okay. Well, I don't know about that.
19 But did you tell him everything your witnesses were going
20 to testify to?

21 MR. HUNTER: Most of it's in the discovery we handed
22 to him, yes, Your Honor.

23 THE COURT: Okay. Mr. Thompson, are they going to be
24 testifying to something that's relevant to the case?

25 MR. THOMPSON: Well, I -- they will testify that

1 Mr. Holmes [sic] was at home the last they saw him on that
2 evening --

3 THE COURT: These are alibi witnesses?

4 MR. THOMPSON: Well, I don't -- they're not going to
5 testify that they saw him all night long, you know. But,
6 at some point, he was at home.

7 And then there's, also, the time period where he
8 supposedly received a call and then 12 minutes later, he's
9 over on the north side and Howard Street. And I'd just
10 establish a time that he was at home, a certain time.

11 THE COURT: Oh, they're just going to be testifying
12 about what they -- any knowledge they have about the
13 events of that night?

14 MR. THOMPSON: No. They don't have any knowledge of
15 that.

16 THE COURT: Well, they're not going to testify about
17 the events of this night on July the 25th?

18 MR. THOMPSON: As to what happened at that -- at the
19 crime scene, no.

20 THE COURT: Well, what I'm saying is, are they going
21 to testify about anything other than what occurred within
22 the 24 hours that -- in which --

23 MR. THOMPSON: No, no. I'm not going to offer them
24 as character witnesses, or something like that, or
25 anything. I'm just -- they're, basically, going to

1 establish that he was at home till -- into the night.

2 MR. HUNTER: Your Honor, we have not received any
3 alibi notice from the Defense.

4 MR. THOMPSON: I -- I believe we discussed the
5 defenses --

6 MR. HUNTER: We're required to receive that 10 days
7 before the trial. We did not receive anything in writing.

8 THE COURT: Okay. So what are we going to do?
9 Exclude it?

10 MR. HUNTER: That's what I would request, Your Honor.

11 THE COURT: You would. And how far do you think
12 that's going to get us down the road?

13 All right. What we're going to do since --

14 Mr. Thompson, do you agree that you were required
15 under Rule 5, I think, to provide the State with --

16 MR. THOMPSON: With a --

17 THE COURT: -- a notice of an alibi?

18 MR. THOMPSON: -- notice of alibi.

19 Well, yes. And --

20 THE COURT: Well, I understand that's what you're
21 intending to offer.

22 MR. THOMPSON: Well, I'm just trying to, basically,
23 put together a time --

24 THE COURT: But you're saying he wasn't there when
25 this happened. And that's --

1 MR. THOMPSON: Well, I'm -- I'm not -- they don't
2 know that. They're not going to testify that he wasn't at
3 the scene. I mean, they're going to testify he was at
4 home until a certain time.

5 THE COURT: So they're not going to provide an alibi?

6 MR. THOMPSON: Yeah -- no. What I'm trying to do
7 is --

8 THE COURT: Well, then what would be the relevance
9 that he was at home the day before?

10 MR. THOMPSON: Not -- the night of, the 24th. He was
11 home for a period of time. And then he would have had to
12 have gotten a ride and gotten back over to the north side.
13 I'm just trying to create a time --

14 THE COURT: All right. Let's do this --

15 MR. THOMPSON: -- period --

16 THE COURT: All right. Here's what I'm going to do.
17 I'm going to take 10 more minutes. And I want you and
18 Mr. Hunter to step outside and you tell him what these
19 witnesses will be testifying to --

20 MR. THOMPSON: Okay.

21 THE COURT: -- since they were not notified of any
22 alibi defense --

23 MR. THOMPSON: Sure.

24 THE COURT: -- before today.

25 We're still in session. So don't let anybody be

1 misled thinking that we're not.

2 (WHEREUPON, a break was taken.)

3 THE COURT: All right. Bring the jury in, please.

4 THE BAILIFF: Yes, Your Honor.

5 (WHEREUPON, the jury came into open court at
6 approximately 3:56 p.m.)

7 THE COURT: Now, as you know, the State has rested in
8 their presentation. So we'll now proceed with anything to
9 be offered by the Defense.

10 Mr. Thompson.

11 MR. THOMPSON: May it please the Court, Your Honor.

12 I would call Jennifer Nates.

13 WHEREUPON,

14 JENNIFER NATES,

15 after first having been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. THOMPSON:

18 Q Ms. Nates, can you state your full name for the
19 Court's record?

20 A Jennifer M. Nates, N-A-T-E-S.

21 Q Ms. Nates, where are you employed?

22 A I'm employed by the South Carolina Law Enforcement
23 Division in the trace evidence section.

24 Q Okay. So that would be considered SLED?

25 A It is SLED. It's the forensic division of SLED.

1 Q Okay. And you are employed in the forensic division,
2 you say?

3 A Yes, sir.

4 Q Okay. And you received special training for your
5 work that you do; correct?

6 A I have.

7 Q And how long have you been employed in that capacity?

8 A 20 years.

9 Q And do you have any type of educational background in
10 that?

11 A I have a Bachelor of Science Degree in Chemistry from
12 California University of Pennsylvania. I obtained that in
13 1997. Upon completion, I performed an internship with the
14 drug -- or the trace lab at SLED. I was then hired into
15 the drug analysis department. I completed the drug
16 analysis training, attended the police academy, and did
17 drug work for approximately one year.

18 I then transferred into the trace evidence section
19 and began the training program within that section. It
20 was a three- to four-year training program. I trained
21 under the senior analysis and the departmental supervisor.
22 This included hands-on training and training at classes
23 that were offered by different associations and vendors
24 dealing with the instrumentation and the types of analyses
25 that were performed.

1 Q Okay. And in the capacity of these forensics, have
2 you testified in any trials?

3 A I have.

4 Q How many would you anticipate?

5 A 104 times.

6 MR. THOMPSON: Your Honor, I'd like to present her as
7 an expert.

8 MR. HUNTER: No objection, Your Honor.

9 THE COURT: An expert in what?

10 MR. THOMPSON: Your Honor, in forensic -- forensic
11 science.

12 THE COURT: All right. She is so qualified.

13 MR. THOMPSON: May I approach, the witness, Your
14 Honor?

15 THE COURT: Yes, sir.

16 BY MR. THOMPSON:

17 Q Ms. Nates, are you familiar with doing gunshot
18 residue in the matter before us today?

19 A Yes. This report contains my results from a lab
20 number that we received.

21 Q Okay. And what kind of test was done?

22 A In the case of gunshot residue, we perform a test
23 using a scanning electron microscope, which means we take
24 the samples that were submitted to us that were collected
25 off of individuals, set up an automated analysis where the

1 scanned electron microscope searches for any particles of
2 gunshot residue. We then do a manual search of those
3 particles and write a report from that information.

4 Q Okay. And how many individuals did you do a gunshot
5 analysis on?

6 A In this case, I received three gunshot residue kits.

7 Q And one was item 13?

8 A Item 13 was a kit from James Jamar Hull Kilgore.

9 Q And what were the results of his gunshot residue
10 test?

11 A On the kit from James Jamar Hull Kilgore, I did not
12 find any particles characteristic of gunshot primer
13 residue.

14 Q All right. And you go on to explain things that can
15 affect the test that -- well, first, you say -- or the
16 absence of the residue. Will you go through and explain
17 that on the test?

18 A Yes. Pretty much with gunshot residue, it's very
19 fragile. If you fire a weapon, there is going to be
20 microscopic residue produced upon the discharge of that
21 firearm. It will deposit on anything in close vicinity to
22 it and up to 10, 11, 12, 13 feet away. The gunshot
23 residue can be removed. It's very fragile.

24 So anything you do after you're shot, if you're still
25 alive, can remove it, if you sweat, if you put your hands

1 in your pockets, if you wash your hands, you'll remove it.
2 So any activity that a person partakes in after either
3 firing a weapon or being exposed to gunshot residue can
4 remove that residue.

5 And, in the report, we list several of the scenarios
6 that can remove the residue, which include normal physical
7 activity between firing and sampling, washing the hands,
8 wiping the hands, or sweating, wearing gloves during the
9 discharge of a firearm. This is included because if we
10 receive a gunshot residue kit from a suspect and it's
11 negative, they could have had gloves on during the
12 incident.

13 Excessive blood or debris on hands. Blood will
14 dissolve the particles of gunshot residue and we will not
15 be able to detect them. And then there's environmental
16 factors including wind and rain, which these come into
17 play whenever the shooting takes place outside. Any of
18 that can cause the residue to not be deposited or to come
19 off of the individual's hands.

20 Some ammunition is a special type of ammunition, and
21 we do not see a particular type of GSR. But, in this
22 case, I did not find that to be the case. And, sometimes,
23 the firearm does not produce enough residue to deposit it
24 on the hands after firing.

25 Q Okay. Thank you.

1 And then item 14 was another kit you -- you had. Is
2 that -- can you explain what -- who was that for?

3 A Item 14 was a GSR kit from Bruce Antrone Brewton.

4 Q And what were the results of his?

5 A The results of that kit were that I did not detect
6 any particles of gunshot primer residue on that kit
7 either.

8 Q Okay. Then item 16, who was that kit attributed to?

9 A Item 16 was a GSR kit from Robert Lee Hull.

10 Q And what was his result?

11 A On the GSR kit from Robert Lee Hull, I found
12 particles of gunshot primer residue.

13 Q Okay. And gunshot residue kits are usually done on
14 the hands?

15 A They are normally done on the hands. We can collect
16 particles from clothing if the clothing is submitted to us
17 for potential shooters, not for victims.

18 Q And so the -- basically, the -- I guess Dr. Wren
19 described it as maybe like soot. Is that some -- some
20 kind of a -- the discharge, is that how the gunshot
21 residue -- is that similar to that, what the gun gives
22 off?

23 A What he described was stippling and tattooing, which
24 is completely different from the gunshot residue. The
25 stippling and tattooing is from the gun powder particles

1 that are in the cartridge that are embedded in a wound.

2 The gun primer residue or gunshot residue, which is
3 what we test for, comes from the components in the primer
4 of the cartridge. The primer contains barium and timonium
5 tone lead, which is what we look for. And you cannot see
6 it.

7 Q That's for the -- when the cartridge separates from
8 the casing?

9 A The primer composition is what the firing pin hits to
10 ignite the powder, which, actually, forces the bullet out
11 of the cartridge.

12 Q And you indicate that Robert Lee Hull was -- was
13 positive. They were found -- particles were found?

14 A He was positive for gunshot primer residue.

15 MR. THOMPSON: All right. Answer any questions that
16 Mr. Hunter may have.

17 CROSS-EXAMINATION

18 BY MR. HUNTER:

19 Q Now, other than talking with us, you don't know
20 anything about this case?

21 A I do not, other than the evidence that was submitted
22 and the time frames for the collection.

23 Q Based on these three names, which one can you guess
24 is the deceased victim? Can you guess which one of these
25 is the deceased victim, based on the probabilities that

1 you learned from your office?

2 A Usually, about 80 percent of our victims have gunshot
3 residue present on their hands from being shot. But I
4 don't guess when I --

5 Q Well, I -- I understand. But -- so what percentage
6 of deceased victims have gunshot residue on their hands?

7 A Approximately 80 percent.

8 Q Of all the tests that come in through deceased victims?

9 A Through the testing we have done at SLED, yes.

10 Q All right. So it's not surprising for a deceased
11 victim to have gunshot residue on them?

12 A No.

13 MR. HUNTER: Thank you very much.

14 MR. THOMPSON: Briefly.

15 REDIRECT EXAMINATION

16 BY MR. THOMPSON:

17 Q You said the deceased had 80 -- that there was -- 80
18 percent of those have gunshot residue on their hands?

19 A Approximately 80 percent of the GSR kits we have
20 received from victims have gunshot residue present on
21 their hands.

22 Q Okay. And do you know why that would be?

23 A Because they are on the receiving end of the weapon.
24 All that gunshot residue -- the majority of it is expelled
25 out of the barrel of the gun, which is pointed at the

1 victim for them to have sustained a gunshot wound.

2 Q All right. So what about -- then would that not
3 be -- not just the deceased, but, also, if they're alive,
4 they -- they probably -- anybody that's going to be shot
5 is going to be exposed to it?

6 A Anyone that is shot or anyone that is near a weapon
7 when it was fired can be exposed to gunshot residue.

8 Q Okay. So that would mean that if the other two
9 gentlemen in this test were near that, would they possibly
10 have it, too?

11 A They could have. But the other two kits were from
12 living individuals, which means I don't know what occurred
13 or what activities they took -- took place after the
14 shooting.

15 Q Okay. And --

16 A The deceased individual is deceased and they no
17 longer move, breathe, absorb the residue. So it won't be
18 removed, unless it's raining or an outside force removes
19 it. But living individuals, whether a victim or a
20 suspect, the residue can be removed by any activity they
21 take part in after the shooting.

22 Q Right. Like washing the hands or --

23 A Sweating, any blood on their hands, anything can
24 remove it.

25 Q Okay. And, basically, the vast majority of -- of the

1 GSR's are done on hands; correct?

2 A Yes.

3 Q But the residue can be anywhere on the body?

4 A It can be. Normally, within the vicinity -- if
5 you're a shooter, you expect to find the gunshot residue
6 on your arms, or your chest area, or your hands.

7 Victims, usually, we take the kits from the hands.
8 But since they are receiving the bullet wound, there is a
9 lot more residue on them. But it could be in different
10 areas.

11 Q Okay.

12 A So we do not test other areas, other than the hands,
13 on victims.

14 Q Just the hands?

15 A Yes.

16 MR. THOMPSON: Okay. No further questions.

17 MR. HUNTER: Briefly, Your Honor.

18 RECROSS-EXAMINATION

19 BY MR. HUNTER:

20 Q Why are the reasons someone would have GSR on them?

21 A You can have gunshot residue on you from firing a
22 weapon, from being in close proximity to a weapon when it
23 was fired, or from -- which includes sustaining a gunshot
24 wound. You can, also, have gunshot residue on your hands
25 from picking up a fired weapon. Because the residue would

1 be present on the weapon and you can transfer it to your
2 hands.

3 Q Okay. And is your lab currently trending away from
4 testing GSR victims?

5 A We are.

6 Q And why is that?

7 A Usually, the question that we are almost always asked
8 is they say the victim fired a weapon prior to being shot.
9 And we are not able to answer that question. We expect to
10 find residue on a victim because they were shot.

11 So we are not able to provide the scientific
12 information that the investigators are looking for. So we
13 are moving towards not analyzing those kits any longer.

14 MR. HUNTER: All right. Thank you.

15 THE COURT: You may step down.

16 MR. THOMPSON: May she be excused?

17 THE COURT: She may be.

18 MR. THOMPSON: I call Ms. Posey.

19 WHEREUPON,

20 PATRICE POSEY,

21 after first having been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. THOMPSON:

24 Q Ms. Posey, can you state your full name for the
25 Court's record?

1 A Patrice Posey.

2 Q All right. And how old are you, Patrice?

3 A I'm 24.

4 Q And do you live here in Spartanburg?

5 A All my life.

6 Q Okay. Where do you currently live?

7 A On Oakview -- on Oakview Drive.

8 Q And that's in?

9 A That's like towards the south side.

10 Q Okay. Now, how do you know Mr. Davis here?

11 A He's my kids father.

12 Q Okay. And how many children do you have with him?

13 A Two.

14 Q All right. And have you ever lived with him?

15 A Yes.

16 Q Okay. You know we're centering around the 25th of
17 July, 2015, the 24th, 25th. Were you living with him at
18 that time?

19 A Yes.

20 Q Were your children there, too?

21 A Yes.

22 Q And, at some point, did you move in with his dad?

23 A Yes.

24 Q What's that address?

25 A It's on Beaumont, I think. I don't know the address

1 exactly.

2 Q What's -- what's that near?

3 A By Gerald's Grocery Store --

4 Q Over by the old swim center area?

5 A Yes.

6 Q Off Church Street?

7 A Yes.

8 Q Okay. So -- and then back in 2015 on the 24th of
9 July, were you living with Holmes at that time?

10 A Yes.

11 Q All right. And did you see him that day?

12 A Yes.

13 Q All right. Did you see him that night?

14 A Yes.

15 Q And what -- what were you guys doing?

16 A We was at home with our kids.

17 Q Okay. Did you, eventually, go to bed? You went to
18 bed at what time?

19 A Around about 12:00.

20 Q About 12:00. Was Holmes there at that point?

21 A Yes.

22 MR. THOMPSON: Okay. I have no further questions.

23 CROSS-EXAMINATION

24 BY MR. HUNTER:

25 Q So you're saying at midnight, Holmes was with you?

1 A Yes.

2 Q Okay. That's all your testimony?

3 A What? That he was at home with our -- with our son
4 in the bed.

5 Q Okay. So he was asleep?

6 A Yes. He had laid down.

7 Q At midnight?

8 A Yes.

9 Q Okay. And did you ever tell Investigator Gary
10 that?

11 A I didn't talk to him.

12 Q Exactly. You never told him that, did you? You
13 never told the police anything after he was arrested, did
14 you?

15 A They ain't never questioned me.

16 Q Okay. But you never went out -- after he was
17 arrested --

18 A No.

19 Q -- your kids father was arrested for murder and you
20 didn't tell the police where he was?

21 A No.

22 THE COURT: Step down.

23 MR. THOMPSON: No redirect.

24 THE COURT: You can step down.

25 MR. THOMPSON: I call Mr. Davis.

1 WHEREUPON,

2 THOMAS E. DAVIS,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: Thank you.

5 Be seated.

6 DIRECT EXAMINATION

7 BY MR. THOMPSON:

8 Q Mr. Davis, can you state your full name for the
9 Court's record?

10 A Thomas E. Davis.

11 Q All right. And, Mr. Davis, what's your relationship
12 with Holmes Davis?

13 A That's my son.

14 Q All right. You guys -- you live at -- what's your
15 address?

16 A [REDACTED] here in Spartanburg, South Carolina.

17 Q All right. And that's over on -- off Church Street
18 near the old swim center --

19 A Right. It's on the same street as C.C. Woodson
20 Center -- Community Center.

21 Q Okay. And on the 24th of July, 2015, do you recall
22 spending time with Holmes?

23 A Yes, I do.

24 Q And what were you guys doing?

25 A My sister was moving down from Charlotte, North

1 Carolina. So from 7:30 to 10:30, 11:00 at night, we were
2 unloading a U-Haul truck.

3 Q And did you move it to your house, or someone else's?

4 A No. She was moving to my aunt's at [REDACTED]
5 [REDACTED] which is -- you drive and it's two or three
6 minutes away.

7 Q Now, that was on a Friday?

8 A Yes, it was.

9 Q And were you working at the time?

10 A Yes, sir.

11 Q Where were you working?

12 A I still work there, AFL Telecommunications, a tech
13 three CNC set-up operator.

14 Q Okay. And you've been there several years?

15 A Yes, sir.

16 Q All right. And after you helped your sister move,
17 where did you go from there?

18 A We came home.

19 Q Was Holmes with you?

20 A Yes.

21 Q Did -- did he have a car.

22 A No, sir.

23 Q Now, when you went to -- home around 7:00 or 8:00
24 after the move --

25 A No. That's what time we started the move.

1 Q Oh. What time did you get back home?

2 A Around 11:30.

3 Q Okay. And then did Holmes go home with you?

4 A Yes, he did.

5 Q And then, of course, you know he laid down with
6 Ms. Posey; correct?

7 A Yes, as far as I know. I mean, I stayed up on the
8 front porch until, like, 1:00, 1:30 that morning. And, to
9 my knowledge, he was still --

10 Q You never saw him after?

11 A No. After we came in and he went in the house, I sat
12 out and drunk [sic] a couple of beers on my front porch.

13 Q Okay. So you never -- but the last time you saw him
14 was around 11:30, or so?

15 A Well, no. Actually, about -- probably about 12:00 or
16 a little after 12:00, my daughter came by to charge her
17 phone. And I think she ended up getting Holmes' phone.
18 So it's after --

19 Q You -- but you didn't -- you saw her, but not Holmes?

20 A No.

21 Q Okay. So you -- that's about -- that's the last time
22 you saw him that day, or on that date?

23 A Yes, about -- in between 12:30 and 1:00.

24 MR. THOMPSON: Okay. I have no further questions.

25 MR. HUNTER: No questions, Your Honor.

1 THE COURT: Step down.

2 MR. THOMPSON: Your Honor, I call Brittany Holmes --

3 I mean Davis. Sorry.

4 WHEREUPON,

5 BRITTANY SIMPSON-DAVIS,

6 after first having been duly sworn, testified as follows:

7 THE CLERK: Have a seat.

8 DIRECT EXAMINATION

9 BY MR. THOMPSON:

10 Q Brittany, will you state your full name for the
11 Court's record?

12 A Brittany Simpson-Davis.

13 Q And you're Holmes' sister?

14 A Correct.

15 Q And you heard your father say you came by his
16 house --

17 A That's correct.

18 Q -- on that night?

19 A Yes.

20 Q And so you live somewhere else?

21 A Yes.

22 Q Where do you live?

23 A At the time, I was staying at [REDACTED]
24 here in Spartanburg with my mother.

25 Q And when you came over, did you see Holmes?

1 A I did. Once I knocked on the bedroom door, he came
2 to the door.

3 Q And you borrowed something from him?

4 A His phone and a charger.

5 Q Okay. And that's the last time you -- did you leave
6 then?

7 A Yeah.

8 Q So you can verify he was there around 12:00, 12:15?

9 A Yes.

10 MR. THOMPSON: Okay. I have no further questions.

11 CROSS-EXAMINATION

12 BY MR. HUNTER:

13 Q You said you borrowed his phone. Did you take his
14 phone?

15 A Yes.

16 Q How long did you have his phone?

17 A Until about 1:30.

18 MR. HUNTER: Okay. No further questions.

19 THE COURT: You may step down.

20 MR. THOMPSON: That'd be the Defendant's case, Your
21 Honor.

22 THE COURT: Any reply?

23 MR. HUNTER: Not from the State, Your Honor.

24 THE COURT: All right. Ladies and gentlemen, that is
25 all the testimony or evidence to be offered in the trial

1 of the case. Before we go any further, I've got some
2 matters I'll need to address with the lawyers.

3 So I'll ask you to, please, go to your jury room.
4 But do not begin any discussions of the case. I'll bring
5 you back in a few minutes.

6 (WHEREUPON, the jury was excused from open court at
7 approximately 4:17 p.m.)

8 THE COURT: Motions or other matters?

9 MR. THOMPSON: None, Your Honor -- well, I think I
10 renewed that motion for a continuance earlier. And
11 that -- so I think it's on the record. That's it.

12 THE COURT: Do you want to renew your motion for a
13 directed verdict?

14 MR. THOMPSON: I don't believe there's sufficient
15 grounds for one.

16 THE COURT: Is there any opposition to arguing and
17 charging in the morning?

18 MR. HUNTER: Not from the State.

19 MR. THOMPSON: I'm sorry. I didn't --

20 THE COURT: Any opposition to arguing and charging in
21 the morning?

22 MR. THOMPSON: None from me, Your Honor.

23 THE COURT: Bring the jury back.

24 (WHEREUPON, the jury came into open court at
25 approximately 4:19 p.m.)

1 FRIDAY, SEPTEMBER 8, 2017

2 THE COURT: Alternate Juror #27 is the twelfth juror.

3 All right. Any matters we need to address before the
4 jury is brought in?

5 MR. THOMPSON: None from the Defense.

6 MR. HUNTER: Not from the State, Your Honor.

7 THE COURT: Okay.

8 MR. HUNTER: Well, we may -- I believe he was going
9 to make a motion about some charges.

10 THE COURT: Well, he can object to my charge when I
11 get through.

12 MR. HUNTER: Okay.

13 MR. THOMPSON: I mean, I can do them now.

14 THE COURT: Okay.

15 MR. THOMPSON: Yeah. I was just going to a charge --
16 request for a jury charge on self-defense, Your Honor. I
17 believe the related case is Addison whereby the Court in
18 the case said it's a complete defense. It's not -- no
19 longer an affirmative defense. And, therefore, that any
20 facts that indicate a self-defense charge is appropriate,
21 then the Defendant is entitled to that.

22 I think evidence is on the record that Kilgore
23 indicated he took the first shot. There's evidence that
24 there's three guns, potentially more gunshot residue on
25 one victim's hand. And the -- the first confrontation

1 between the parties dissipates. It goes way.

2 So even if from the first prong if -- if the jury is
3 inclined to believe the identification of my client's
4 correct, he would have been at fault for being there and
5 getting in that situation. But once it diffused,
6 Mr. Kilgore returned with -- in a very hostile,
7 threatening manner and created another affray, or a
8 circumstance whereby there was a situation where the
9 parties were at odds again.

10 There's testimony that physically he came into
11 contact with a person in that situation. And I think that
12 would create -- would be a situation where a reasonable
13 person would believe that they were at -- at risk of
14 bodily injury -- serious bodily injury, especially with
15 the fact that he came out -- one witness stated that he
16 said, Are y'all going to fight or are y'all going to
17 shoot? And, I'll get -- I'll get my gun.

18 So I believe a reasonable person in that situation
19 would be inclined to believe they're at risk of serious
20 bodily injury. And, therefore, I believe the Defendant is
21 entitled to a jury charge on self-defense.

22 THE COURT: All right. Mr. Hunter.

23 MR. HUNTER: Your Honor, the State would object to a
24 charge on self-defense. Obviously, he has to meet the
25 four prongs in that defense. One, the Defendant was

1 without fault in bringing this action. The only testimony
2 that we've heard is the Defendant had the gun at his side
3 before any of the fighting even, actually, began.

4 We, also, have to have that the Defendant, actually,
5 believed he was in imminent danger. And we have
6 absolutely zero evidence that's been presented by the
7 State or the Defense in this case to show the Defendant
8 believed he was in imminent danger.

9 We, also, have to show -- he has to show the
10 Defendant's actual belief of imminent danger, a reasonable
11 person would believe that he was in imminent danger.
12 Again, the testimony by the witnesses has not shown that,
13 as well as the Defendant had no other probable means of
14 avoiding the danger.

15 Your Honor, if it's true he's saying he's backing up
16 and the fight has stopped, then he would have had means to
17 avoid any danger. And, yet, we have testimony that a
18 group of guys that Holmes Simpson-Davis was a part of did
19 not back up, did not leave the scene.

20 So, Your Honor, at this time, we request that the
21 self-defense charge not be given.

22 MR. THOMPSON: And, Your Honor, I -- I could go on
23 with the -- the risk -- being at risk of bodily -- of
24 serious bodily injury. That goes with being in danger. I
25 mean, I -- like I said, the threats communicated orally

1 and physically by the victim as he returned to that crowd
2 would make anyone believe they were in -- at threat of
3 imminent danger. Are you going to shoot? Are you going
4 to fight? Are you going to shoot? You know, F your guns.
5 I'll get my gun, you know. Imminent -- that's, basically,
6 imminent danger. He's put in a situation out there where
7 he's reignited a situation that's calmed down. And, like
8 I say, he's got gunshot residue on his hands. There's
9 some circumstantial evidence there that he -- he had a gun
10 and fired a gun.

11 And then I go on with Mr. Kilgore and his statement.
12 He shot first. I think that -- you know, a reasonable
13 person is going to think they're in imminent danger there.
14 With Mr. Kilgore stating, I shot first, certainly, if
15 they -- if anybody backs away, they're going to be at risk
16 of shooting -- or getting shot anyway. They're not going
17 to be able to escape a gun -- a gunshot.

18 And, therefore, I think -- I think all four prongs
19 are met here. But based upon Mr. Kilgore and Mr. Hull's
20 statements and actions during that second advance into
21 the -- the affray between the parties.

22 THE COURT: All right. Well, I find, based upon my
23 review of the evidence, that there's no evidence to
24 support any of the four prongs necessary to give rise to a
25 defense of self-defense. And, therefore, the facts not

1 supporting that defense, the defense will be declined --
2 the instruction on that defense will be declined.

3 MR. THOMPSON: Your Honor, I'd, also, make a motion
4 for lesser included offenses on assault and battery with
5 intent to kill. The Court could, also, entertain assault
6 and battery of a high and aggravated nature under that. I
7 think that is the proper lesser included offense. And we
8 would request that be charged to the jury.

9 THE COURT: You're referring to aggravated assault
10 and battery as a lesser included offense as to attempted
11 murder?

12 MR. THOMPSON: Yes, Your Honor.

13 THE COURT: Okay.

14 MR. HUNTER: We have no objection as to attempted
15 murder, Your Honor.

16 THE COURT: All right. I will instruct the lesser
17 included offense of aggravated assault and battery on the
18 attempted murder indictments.

19 MR. THOMPSON: And then on the murder, I just argue
20 that there's sufficient evidence on the record, based upon
21 the actions of Mr. Hull reengaging the situation, that a
22 manslaughter charge could be -- it is proper. It's just
23 without malice. This happened, boom. It happened real
24 quick. Again, there's no malice aforethought involved in
25 that quick time period that he reproaches that crowd.

1 MR. HUNTER: Your Honor, we, also, object to that
2 charge as to the voluntary manslaughter under the murder
3 charge. Your Honor, for that, you must show heat of
4 passion and sufficient legal provocation. Words alone are
5 not enough for sufficient legal provocation. And that's
6 all we have here are words.

7 So we'd ask that that charge not be given.

8 MR. THOMPSON: And I'd argue that the testimony is
9 that there was physical contact between the parties. And
10 that it took place out there. And that it would be the
11 heat of passion, based upon the fight -- or the
12 interaction between the parties at that time.

13 THE COURT: Well, even if the evidence would give
14 rise to a reasonable inference of heat of passion, there's
15 not, in my view, evidence to support a sufficient legal
16 provocation. I'm not certain that there's any evidence of
17 heat of passion. But giving you the benefit of the doubt
18 on that issue, there is not sufficient legal provocation.

19 Therefore, an instruction on voluntary manslaughter
20 is not appropriate. That is, also, declined.

21 MR. THOMPSON: Thank you, Your Honor.

22 MR. HUNTER: And, Your Honor, the State would request
23 an aiding and abetting charge, based on the actions that
24 there were two shooters there and the shooters were acting
25 in concert as they were leaving the scene --

1 THE COURT: As to the attempted murders?

2 MR. HUNTER: As to the attempted murders, yes, Your
3 Honor.

4 THE COURT: Mr. Thompson, do you wish to be heard on
5 that?

6 MR. THOMPSON: I don't have any objection to that.

7 THE COURT: All right. Anything else?

8 MR. HUNTER: Nothing from the State.

9 MR. THOMPSON: None.

10 THE COURT: All right. Bring the jury in.

11 THE BAILIFF: Yes, Your Honor.

12 THE COURT: And Juror #27 will be the twelfth juror
13 and is still ahead of the one alternate.

14 THE BAILIFF: Yes, Your Honor.

15 THE COURT: I understand there's no objection to
16 Juror #27 taking the twelfth juror's place.

17 MR. HUNTER: None from the State, Your Honor.

18 MR. THOMPSON: None, Your Honor.

19 (WHEREUPON, the jury came into open court at
20 approximately 10:04 a.m.)

21 THE COURT: Let me ask y'all to move down.

22 Is the -- is the rope still up?

23 UNIDENTIFIED JUROR: It is.

24 THE COURT: I'll ask the bailiff to remove the rope,
25 please, so the jury can move down.

1 Good morning, ladies and gentlemen.

2 As you know when we recessed yesterday, all the
3 evidence had been received. What remains to be done are
4 the lawyers final summations; after which, I'll provide
5 you with a legal instruction. And then you'll begin with
6 your deliberations in the case.

7 Yesterday -- one of the jurors was present yesterday,
8 but is excused today because she had requested excusal for
9 Friday on Monday when -- during the qualification process.
10 By virtue of her being excused, Juror #27 -- that's
11 Ms. Brown.

12 Ms. Brown, you are now the twelfth juror. And so you
13 will participate in the jury deliberations when that time
14 comes.

15 Ms. Hollis, you're still an alternate juror. And
16 you'll take the place of one of these 12 if, at some
17 point, during this process before a verdict is rendered
18 that one of these jurors cannot continue to serve.

19 All right. You'll hear from the lawyers now. Then
20 I'll provide you with the instructions.

21 So, please, give the lawyers your attention as they
22 give you their final summations.

23 Mr. Hunter.

24 CLOSING ARGUMENTS

25 MR. HUNTER: May it please the Court.

1 Ladies and gentlemen of the jury, thank you for your
2 time this week. Thank you for your service.

3 We are here today on the trial of Holmes
4 Simpson-Davis for the charges of murder, attempted murder
5 times two, and possession of a weapon during the
6 commission of a violent crime for all of those -- for the
7 three -- the murder and attempted murder charges.

8 We're on the trial of Holmes Simpson-Davis. It's his
9 day in court. You heard from Investigator William Gary
10 that Felshunti Clark was arrested, too. This is Holmes
11 Simpson-Davis' day in court.

12 You heard testimony from a multitude of witnesses
13 from both the State and the Defense, over 20 witnesses.
14 You've been here since Tuesday. And we're now here into
15 Friday. Two trials have already gone on in Judge Kelly's
16 courtroom to a verdict and back.

17 So I thank you for listening, and paying attention,
18 and using your common sense. And that's what's going to
19 come in handy today.

20 Let's talk about some of the uncontroverted facts
21 that occurred during testimony. We know that a lot of
22 people were at the liquor house at [REDACTED]. We
23 know that James Kilgore, JJ, Bruce Brewton, Little Bruce,
24 were at the liquor house. We know that Felshunti Clark,
25 Little Man -- I know it's difficult. There's so many

1 nicknames in this case. I'm going to try to use their
2 real names.

3 They were all at the liquor house when a fight broke
4 out between a Charlie Ann Johnson and her son, Junior, and
5 his stepfather. I don't know Junior's real name. Robert
6 Hull got in the middle of that fight and helped break it
7 up. This is at the liquor house.

8 James Kilgore was, also, outside helping break this
9 fight up. Bruce Brewton, you heard from him. He was
10 still inside. Felshunti Clark was, also, outside during
11 this with a man we've heard is Pee Wee. I do not know Pee
12 Wee's real name. You didn't hear his name. No one knows
13 his real name.

14 But, at some point, Mr. Clark and Mr. Kilgore had a
15 few words at the liquor house. You then heard testimony
16 that Pee Wee and Mr. Clark leave the liquor house walking
17 down towards the city.

18 You've heard testimony from Christopher Bryson. He
19 was the tall man that sat up at the beginning of the
20 trial. And I asked him if he knew anybody sitting on this
21 left-hand side of the -- behind us. He didn't know a
22 single person. I asked him if he knew anybody sitting
23 over here behind the Defendant with his family. He didn't
24 know a single person. He's an unbiased witness who just
25 told police what he saw.

1 And what he saw was two black males walking down the
2 street towards the city. He then sees those same two
3 black males with three more black males walking back up
4 towards [REDACTED] where this incident occurred.

5 Now, again, Mr. Bryson doesn't know a single person
6 in this courtroom. He's just telling you what he told the
7 police, and what he saw that day.

8 He then sees those same five black males running back
9 towards the city with two of them firing shots behind
10 them. And he stood up and said they were like this, not
11 looking where they were shooting, looking towards the city
12 where they were running without a care in the world where
13 those bullets went. That was Christopher Bryson's
14 testimony.

15 Now, if we go back, he sees two gentlemen walking
16 down towards the city, three more walking with them. So a
17 total of five walking back up to [REDACTED].

18 At this point, I want you to look at Bruce Brewton
19 and James Kilgore's testimony. They've decided to leave
20 the liquor house and go home. They're getting in their
21 car with a man that they call Red, Travious Young, as well
22 as a man that they call Boobee, who's name is Christopher
23 Brannon. And they've, also, promised a ride home to
24 Robert Hull. But Robert had to go to [REDACTED]
25 to gather his belongings and get his shoes.

1 Now, why would his belongings and shoes be there?
2 That's where his girlfriend is, where her sister is.
3 Travious Young, Christopher Brannon, James Kilgore, and
4 Bruce Brewton walk across the street to his car and drive
5 the very short distance to [REDACTED]. They pull
6 into that residence. Mr. Brewton gets out. He's going to
7 light a cigarette. Mr. Brannon, Mr. Young, and
8 Mr. Kilgore all get out of the car.

9 At this point, those five gentlemen that Mr. Bryson
10 had seen walk up from the city are now outside of the
11 driveway. We had Mr. Kilgore and Mr. Brewton show you
12 they were standing right here while Mr. Kilgore,
13 Mr. Brewton, and, ultimately, Mr. Hull were on the
14 driveway side.

15 At that point, Mr. Felshunti Clark continues to have
16 words with James Kilgore. He's talking about wanting to
17 fight him over an incident that happened at the liquor
18 house. I don't understand. That's not the world I live
19 in. That's not the world a lot of y'all probably live in.
20 But that's what they wanted to do that night was fight.

21 Now, remember, at the liquor house, it's only
22 Felshunti and Pee Wee. If he's going to fight Mr. Hull,
23 Mr. Kilgore, Mr. Brewton, Mr. Young, he's got to go get
24 some people. Now, he only wants to fight Mr. Kilgore.
25 Does it make sense for someone to want to fight one person

1 when there's four other friends around them? It doesn't.

2 So what does he do? He calls Holmes Simpson-Davis.

3 And we know that because items 23 and 24 from Felshunti
4 Clark's phone show two outgoing calls to the number that
5 we've already stipulated to was Mr. Davis' phone.

6 Now, on those calls, it will show around 5:12 UTC
7 time -- you've heard both officers talk about UTC time,
8 that eastern standard time during daylight savings time
9 is, actually, minus four hours. So if you go back, 5:12
10 UTC time is, actually, 1:12 eastern standard time.

11 So in the early morning hours of July 25th, Mr. Clark
12 makes a phone call -- makes two phone calls to Holmes'
13 cell phone. Five minutes later, there's an incoming call.
14 Item 21, I believe that's about five UTC -- 5:17 UTC time.
15 So at 1:17 eastern standard time, we had an incoming phone
16 call from Holmes' phone to Felshunti Clark.

17 Now, I've passed these around. And you're going to
18 see both the incoming and outgoing phone calls. If you
19 look to the right, there's red lettering. And, it says
20 Deleted. Out of all the phone calls that Felshunti made
21 and that Felshunti received prior to going to the police
22 station, he deleted those three phone calls. It's the
23 phone calls that lead Holmes Simpson-Davis to appear on
24 Howard Street.

25 Now, we heard from witnesses from the Defense. We

1 heard from the mother of his children, who stated that she
2 went to bed at 12:00 with him. And for all she knew, he
3 stayed home the entire time. We heard from his father,
4 who was helping someone move, that he last saw him around
5 12:30, 1:00 at his house. And then we heard from his
6 sister, who stated she came over to use the charger and,
7 actually, had his phone until 1:30 that morning.

8 Now, we know the first 911 call comes in at 1:33. We
9 know that Deputy Shehan arrived -- excuse me, Lathier
10 Graham arrives on the scene at 1:35, around the exact same
11 time Deputy Shehan's there. Because you, actually, see
12 Deputy Shehan's vehicle -- you see -- excuse me, you see
13 Mr. Graham arrive. And you, actually, hear him kick by
14 accident a casing on the ground.

15 Mr. Thompson got up and stood here in opening
16 statements and he told you that you get to believe any of
17 the witnesses you want to. You get to disbelieve any of
18 the witnesses that you want to. And you need to ask
19 yourself why -- why would a witness lie?

20 Why would his sister lie about having his cell phone
21 at 1:30 in the morning, the day of the shooting? It's
22 pretty simple. She's trying to not put him there. If she
23 has his cell phone and she's the one that receives the
24 calls, then Holmes Simpson-Davis doesn't know to be there.

25 And then you've got Brianna Woodruff. She's been

1 sitting on the Defense side the entire time. When
2 officers went to interview her, her first statement was
3 that she went to the liquor house alone, left the liquor
4 house alone before this incident happened. We know that's
5 not true.

6 How do we know that's not true? Another unbiased
7 witness, Ariel Moore. She didn't know a single person on
8 either one of these sides. She was here to testify
9 because of what she saw that night. And you, actually,
10 see her on Deputy Shehan's body camera, as well as Deputy
11 Allen's body camera.

12 She is driving towards the city, passes the body, and
13 notices down here that there is a black male -- a few
14 black males jump into a Lexus vehicle, a Lexus car. What
15 kind of car does Brianna drive? She notices that the tag
16 on that vehicle is what she says GDF 329. She gets all
17 but one letter right. And we heard from Investigator
18 Hutchins that that's normal.

19 And so when he looked up GDF 329 and saw that it
20 wasn't a Lexus, he wanted to see if it was one letter off.
21 So he looked up GQF 329. And he saw that it was a Lexus
22 registered to someone who lives in Spartanburg. And when
23 Investigator Gary talked to Chandra Underwood, he realized
24 that her daughter, Brianna Woodruff, drives that vehicle.

25 When Brianna is confronted with this information

1 after her first statement, she then changes her statement.
2 And you'll get to see that second statement. It's in
3 evidence. You'll get to bring that back in the jury room
4 with you when you deliberate.

5 And you'll see in that statement, she no longer goes
6 to the liquor house alone. She goes with Holmes
7 Simpson-Davis. And the reason they go to the liquor house
8 is because he received a phone call, not his sister, but
9 he received a phone call. And that is why they went to
10 the liquor house.

11 She even wrote that she dropped him off before
12 getting to the liquor house. Whose testimony does that
13 match up with? Does it match up with Mr. Bryson, who sees
14 the two males meet three more males and then walk back up
15 to the city -- walk up to the scene?

16 She then writes in her statement that she goes to the
17 liquor house. Somebody tries to get in her car. She
18 kicks them out. And then she leaves the liquor house.
19 Again, is she being totally truthful? You've seen [REDACTED]
20 [REDACTED] the location of it. She testified that she
21 didn't hear any shots coming from [REDACTED].
22 There's [REDACTED] There's [REDACTED] the liquor house. We're
23 talking a very short distance.

24 How many shell casing are there? Multiple
25 nine-millimeter shell casings, at least, six .45 shell

1 casings. Let me tell you, a .45 is not a soft gun. That
2 is a loud gun. But she doesn't hear anything.

3 At the same time, in her second statement, she leaves
4 the liquor house. She goes back down the street, picks up
5 who? The Defendant. And then says she goes home -- or
6 goes to a friend's house.

7 Now, Investigator Gary wants her to clarify about
8 that phone call. And why does he want her to clarify?
9 Because by August 6th, he already had those phone records.
10 He knew that Felshunti Clark called Holmes Simpson-Davis.

11 So in that parentheses at the bottom -- and,
12 remember, this statement is written by Brianna Woodruff.
13 Now, I don't expect you to read it here. You'll be able
14 to read it when I hand it around to you. But that's her
15 handwriting. That's not Investigator Gary's handwriting.
16 That's her voluntary statement, not Investigator Gary's.

17 Now, on the jail phone calls between her and
18 Mr. Davis, she wants you to believe that she was coerced,
19 that she was threatened, that he forced her to write that
20 statement.

21 And you heard Mr. Thompson ask if she was under
22 Miranda rights. Witnesses are not put under Miranda.
23 Miranda is only required for custodial interrogation,
24 custodial interrogation. When you're talking to
25 witnesses, you're trying to find out what happened.

1 You're not trying to charge them with anything. You're
2 not threatening them with anything. You want to know what
3 happened at [REDACTED]. We know that her car was
4 nearby at the scene. So he goes and asks her.

5 Now, on the jail phone calls, she talks about he
6 threatened her with one to three. Actually, I don't
7 believe she ever says that. Who says that? Holmes Davis
8 says that. Remember when they threatened you with one to
9 three? Remember when they coerced you into writing that
10 statement? Down at the bottom, she talks about the phone
11 call. And it's that phone call that they receive is the
12 reason they go to the liquor house.

13 You have four jail phone calls. You'll be able to
14 listen to them. This computer that everything's been
15 playing on, you'll be able to take it back into the jury
16 room and you'll be able to listen to them.

17 When he advises her to plead the Fifth, it's not to
18 incriminate her. It's so that she won't incriminate him.
19 She's a friend of his. I put her on the witness stand
20 knowing full well that she was not going to be on our
21 side, knowing full well that she was going to deny that
22 second statement. Because I had those jail phone calls
23 that were between the dates of August 15th and either the
24 25th or 24th of this year, not too long ago. They spoke
25 on the phone 22 times. Now, I only played four of those

1 for you.

2 He didn't want her to testify because she puts him
3 there. She puts him there with Felshunti Clark and the
4 other gentleman, his own home girl. And so if she doesn't
5 testify, if she tries to plead the Fifth, the only two
6 other people who put him there are James Kilgore and Bruce
7 Brewton. But we had one of his own friends placing him at
8 the scene.

9 Now, of course, she's going to try to get out of it
10 and say that Investigator Gary and Paul Norris threatened
11 her, threatened her with one to three years. You never
12 heard of a crime that carries that..

13 So we know that Holmes Simpson-Davis is there, unlike
14 what his father, sister, and mother of his children say.
15 We know that he's there. That's what the evidence has
16 shown.

17 And then you hear from James Kilgore and Bruce
18 Brewton that there's a little argument going back and
19 forth between Mr. Kilgore and Mr. Clark. And in that
20 argument, both James Kilgore and Bruce Brewton realize
21 that Holmes has a gun already out, already by his side.

22 Bruce Brewton, realizing this, that there is a gun
23 there at a fistfight, tries to break it up. He tries to
24 play the peacemaker. He tries to quash the fight. And it
25 appears that he is going to be successful. But very

1 shortly after he is, within seconds, Robert Hull, who's
2 been on the porch this whole time -- and we heard from
3 both Bruce Brewton and James that he was going to stand up
4 for his friends and his family -- comes out there and
5 insults Holmes Davis, insults his gun and says, I'm going
6 to go get my gun.

7 But we know from the testimony -- look where he's
8 laying. Is he able to go anywhere? We heard from the
9 testimony that he's probably a few feet away from
10 Mr. Holmes Simpson-Davis. And Holmes Simpson-Davis takes
11 that gun from his side, brings it around so that it points
12 at Bruce, and then, finally, points it at Mr. Hull.
13 Mr. Hull is dead.

14 Now, some of y'all jumped when I did that. You heard
15 from both of the witnesses that they were shocked. That's
16 not even as loud as a .45. It shocked them. And at that
17 point, Bruce Brewton and James Kilgore try to run. Bruce
18 is shot in the back of the leg. It comes out the front
19 and across the foot. Mr. Kilgore is shot in the foot.

20 I'm going to be totally honest with you here. I
21 cannot prove to you today which one of those two guns shot
22 Mr. Brewton or Mr. Kilgore. But in order to find him
23 guilty of attempted murder, I don't have to. Mr. Holmes
24 Simpson-Davis is there. He's already shot Mr. Hull and
25 killed him. Because, obviously, both witnesses said he

1 fell to the ground. You heard from James Kilgore that he
2 then fired his gun. He then started pointing his gun back
3 towards him. And he ran.

4 When you shoot a gun at someone and they're dead and
5 then you point your gun at someone else and start firing,
6 even if they don't see you, there's an intent to kill
7 there.

8 Imagine a house. And you know someone's in that
9 house. And you're a shooter. You don't know where they
10 are in that house, but you know that there's someone in
11 that house. And you start shooting into that house with
12 no regard for the safety of the people in that house.
13 You're guilty of attempted murder. Those people in the
14 house may not see you. But you're still guilty of
15 attempted murder.

16 How do we know that Mr. Holmes Simpson-Davis even
17 fired shots after he killed Mr. Hull? We know this bullet
18 came out of Mr. Hull's spine. We heard from a SLED
19 witness, Chad Smith, that in his expert opinion that
20 bullet is a .45-caliber bullet.

21 And there were two other bullets found in the yard at
22 the residence of [REDACTED] that were, also, .45-caliber
23 bullets. We've got six .45-caliber shell casings found on
24 the scene. We heard testimony from Chad Smith that every
25 single one of these was fired from the same gun.

1 So it's a little deductive reasoning, a little common
2 sense from you. If that .45-caliber bullet is the one
3 that killed Robert Hull and we have six .45 caliber shell
4 casings on the scene, it's very likely that that bullet
5 came from one of those shell casings. And if all of those
6 shell casings were fired from the same gun and
7 Mr. Simpson's the one who shot and killed -- Mr. Holmes
8 Simpson-Davis is the one who shot and killed Mr. Hull,
9 then Mr. Holmes Simpson-Davis is the one who shot these
10 five other bullets. It's common sense.

11 I want to talk a little bit of legalese with you at
12 this point. We have a burden. That burden is reasonable
13 doubt. We have to prove beyond a reasonable doubt that
14 Mr. Simpson-Davis shot and killed Robert Hull with malice
15 aforethought.

16 Now, malice aforethought is a weird term. I had
17 never heard it before I went to law school. There's tons
18 of cases on it because it's still a hard term to define.
19 What that means is that you killed someone with the evil
20 intent to do so, and that evil intent arose sometime prior
21 to that shooting and lasted during the shooting. Now,
22 that evil intent can be weeks in advance like someone
23 who's planning on killing someone and sets a trap for
24 them. It can, also, be a second before you pull that
25 trigger.

1 So the malice in this case, where do we get that?
2 Holmes Simpson-Davis received that call from Felshunti
3 Clark at 1:12 and spoke to him, and called him back at
4 1:17. He knew that there was going to be a fistfight. He
5 knew that Felshunti wanted to fight James Kilgore. And
6 what did he do? He brought a gun. He brought a .45.

7 And before the fight ever happened -- because the
8 fight never does happen. There are no punches thrown.
9 We've heard that from all the witnesses, no punches were
10 ever thrown. He already has it out and by his side. He
11 knows what he's going to do with that gun.

12 And when Mr. Hull comes off that porch and insults
13 him, and insults his gun, and insults his boys, he pulls
14 it up beside him and a few feet away, as we saw by Bruce
15 Brewton, he points it downward a little bit and pow, pow.

16 Now, there's only one gunshot wound. There are
17 multiple bullets, though. We know that a .45 killed
18 Robert Hull. And we know that Holmes Simpson-Davis is the
19 one who shot him.

20 I did not place the nine-millimeter cartridges into
21 evidence. I want you to see them here. I don't want to
22 hide them from you. They're here. There was multiple
23 nine-millimeter casings on the -- on scene. Y'all know
24 about that. Those are not going to come back with you
25 into evidence. But there were multiple shell casings.

1 You'll have that diagram that shows where all the shell
2 casings were located. Now, not on that diagram are those
3 four other shell casings farther down the street.

4 How do we know that JJ and Bruce are telling the
5 truth? Do you remember when both of them got up there and
6 said there was an initial round of shots? And then they
7 started going to the car and another round of shots
8 started happening. That Bruce couldn't even get into his
9 car. He was about to, at which point, some more shots
10 started happening so he had to duck down. He had to duck
11 and cover.

12 So here are all the initial shell casings. These
13 include all the .45 shell casings, as well as all but four
14 of the nine-millimeter shell casings. And you see this is
15 Wayland Street. Again, the body's right here. And I know
16 it's hard to see, but this is Wayland Street. The shell
17 casings are all found right here.

18 And then down here is Lanier Street. This is where
19 Christopher Bryson was in this driveway right here. There
20 were four more shell casings, nine millimeters found down
21 here. There's an entire part of Howard Street right here
22 where no evidence was located. Does that not back up
23 Mr. Kilgore and Mr. Brewton's statement that they heard
24 the initial round of shots all right here?

25 And then a few second later, more shots. And how do

1 we know? Because there's four more shell casings down
2 there. But, also, it bolsters Mr. Bryson's testimony.
3 Because he's right there and he sees people running down
4 the street and firing behind them.

5 I want you to go back in that jury room and look at
6 all the pieces of evidence. You have the right to come
7 and listen to testimony, if you want. You have the right
8 to listen to those jail phone calls. You have -- since
9 the Defense put Mr. Kilgore's interview in, you have the
10 right to listen to that interview. Any of the evidence
11 that's entered will go back with you in that jury room.

12 And after looking at that evidence, thinking about
13 the testimony, using your common sense, using your
14 deductive reasoning skills, you will see that all the
15 direct evidence, all the circumstantial evidence all
16 points to Holmes Simpson-Davis firing a weapon with malice
17 aforethought, striking Robert Hull, going down through his
18 jaw and into his spine killing him instantly.

19 You will, also, find that he continues to fire shots
20 at the residence where these people are located. And, in
21 fact, two .45s are found in the yard around the residence.
22 And that in doing so, he attempted to kill Bruce Brewton
23 and James Kilgore. And that he did all of this with a
24 weapon, a firearm, a .45-caliber.

25 When you come back here, you'll come back with guilty

1 verdicts on all six charges.

2 Thank you.

3 THE COURT: Mr. Thompson.

4 MR. THOMPSON: May it please the Court, Your Honor.

5 Ladies and gentlemen, I, again, thank you for your
6 time. It's been a long week. And you probably are one of
7 the more attentive and engaged juries that I've -- that
8 I've been involved with in the seven years I've done this.

9 I'm going to start just, basically, by discussing
10 what -- what all has gone on this week. And I think
11 Mr. Hunter here covered specifics, and he went into detail
12 on the things that happened. And I'm not going to go back
13 into a whole lot of those details. But I will, basically,
14 talk about the cast of characters that were introduced to
15 you this week. I'll talk about some terminology that you
16 guys were introduced to this week.

17 The cast of characters, you had Big Boy. That's
18 Mr. Hull, the victim of the murder. You've got JJ, that's
19 Mr. Kilgore, who had the injury to his foot from a bullet
20 wound. You had Little Bruce, that's Bruce Brewton.
21 Mr. Brewton had the injury to his leg. He's the victim of
22 that. We've got Pee Wee. I don't know his real name. He
23 wasn't a major actor in this scenario here.

24 You had Boobee, that's Christopher Brannon. He's the
25 mystery man that Mr. Kilgore failed to mention in his

1 statement. He's the mystery man that Mr. Brewton failed
2 to mention in his statement. But he was in the car, and
3 drove over -- he rode over with them. He disappears for
4 over a year. Then Mr. Gary finds him, talks to him in
5 January of 2017. That's Mr. Brannon.

6 You've got Little Man, that's Felshunti Clark. You
7 heard his name throughout. You heard his name mentioned
8 as the first person that Mr. Kilgore identifies. Later
9 on, I believe Mr. Brewton identifies him right off at the
10 hospital.

11 You've got Red; that's Mr. Young. He's the other guy
12 that was in the car that drove to [REDACTED] in an effort to
13 pick up Mr. Hull and to get his -- to get his things,
14 change his shoes. You've got the Geter sisters who lived
15 at [REDACTED] And you've got my client, Holmes Simpson-Davis.
16 He didn't have a nickname that we know of.

17 All right. What happened here, guys? Well, a
18 terrible thing happened. And, unfortunately, it's a
19 terrible thing that happens a lot in our country, even
20 around here locally.

21 You heard some terms this week, legal terms, police
22 terms, casings, cartridges, GSR, gunshot residue kit. You
23 were introduced to reasonable doubt, burden of proof,
24 elements of a crime, lesser included offenses. You, also,
25 heard some other terms, liquor house, wasted, do a

1 one-on-one. All that came out. All that's relevant and
2 important to what we're doing here today.

3 What I'll do first is I'll go through the cast of
4 characters we have. And, first, look at your officers.
5 Officer Shehan, he's first on the scene. He said he got
6 there in five minutes. He didn't put a time at what time
7 he got there. He didn't know. He said it was after 1:00
8 sometime.

9 We -- we extended resources to have a Greenville
10 officer to go through a phone, a phone that was seized
11 from Mr. Clark. And the indication is, hey, he called
12 Holmes Simpson-Davis. We don't know the context of those
13 calls. We don't know if Mr. Davis had his phone. We
14 don't know if Mr. Davis called him back. We don't know.
15 None of -- all of that's unknown.

16 The State speculates and puts in their theory that he
17 was contacting my client, and requesting that he come over
18 and join a fist fight. That's -- that's just speculation.

19 You've got witness Bryson. He couldn't identify
20 anyone. But he did say one thing, he could hear the noise
21 from the liquor house. I want you to think about that
22 environment that -- over there. There's folks running
23 everywhere, according to one witness. He's says he's a
24 couple streets away. He can hear what's going on over
25 there. It's 1:30 in the morning.

1 And he, basically, talked about three -- three black
2 males that didn't have dreads, and two had dreads. All of
3 them had on white T-shirts. And that's another thing that
4 you're going to see throughout this entire thing, all
5 these white T-shirts people have on. Everybody seems to
6 have on a white T-shirt every time you ask what they were
7 wearing, if you could identify them.

8 Mr. Graham -- Officer Graham, he's the one that
9 collects the evidence. He's the one that likes to hear
10 those cartridges rattling around on the ground and in the
11 road. He arrives at 1:35. He gets started on gathering
12 evidence.

13 And one thing that sits -- doesn't sit well with me
14 in this case, these officers get there and there is a
15 shooting. There's a person that pretty much is dying on
16 the ground. They don't go canvas the area. They don't go
17 looking for anybody. You'd think they'd be right there
18 at -- at the brink of the -- right when the crime occurs.
19 And your information you gather is they're on foot. You
20 go out and set up a perimeter, and try to find these
21 folks. That wasn't done.

22 Also, you heard Mr. Graham tell you that he did a
23 gunshot residue kit on the victim while he was lying in
24 the driveway there. I guess he didn't get word from SLED
25 that those are not so important anymore. They are

1 important. There's a reason they're -- they're done.
2 There's a reason all law enforcement has those. It's to
3 detect gunshot residue from people who shoot a gun.
4 That's the purpose of it. He collected that like he's
5 supposed to.

6 He discussed the casings. He informed you that
7 casings can be moved. They're fairly light. That's those
8 little hollowed out things that you have there, like a --
9 cup shaped. They're scattered throughout.

10 However, there's none beside -- in that driveway. If
11 the shooting would have taken place the way Mr. Brewton
12 said it did, there should have been a shell casing in that
13 driveway, unless somebody came by and picked it up. These
14 are things that he -- he picks up the casings. He gets
15 the bullets -- the fragment bullets, and he goes into the
16 condition of the bullets. Not real important, I don't
17 think. But, you know, he did a good job. And he
18 collected his evidence like he's supposed to.

19 Then SLED Agent Smith came in and he told you about
20 the bullets. And it's like he -- Mr. Hunter said, those
21 bullets probably came from the scene, those .45s. A .45
22 is never recovered. A nine millimeter is never recovered.
23 We don't have a weapon here. We don't have anything to
24 tell us whose gun that was.

25 But what else does he, also, tell us? He tells us

1 that, according to his bullet fragments and the things he
2 finds, three different guns are out there. Now, the State
3 doesn't want to talk about the .40 caliber bullet or
4 evidence of other guns. They want to talk about two guns
5 that Mr. Kilgore and Mr. Brewton tell you they saw.

6 And, by the way, that second gunman, I guess he's
7 still out there on Howard Street running around. They
8 didn't look for him. However, we've got evidence of three
9 weapons. Think about that. Think about it. And he,
10 also, indicated that these bullets in the shape they were
11 in could have ricocheted off the road.

12 Mr. Nix testified that there were no casings in the
13 driveway. He, also, testified that when you find casings,
14 there's no way to tell which direction the bullets were shot.
15 Remember, he agreed with me -- or one of these guys agreed
16 with me that several more casings than bullets were found.
17 Yet, we don't look the other way to see if gunshots were
18 fired that way. We don't canvas that area. We talk to
19 two people, two people who are wasted drunk. And we
20 just -- we shut down the investigation the next day.

21 Mr. Hutchins, he confirmed there's blood on the
22 bottom step. However, Brewton and Kilgore both indicate
23 they never went to the step. Where's that other bloody
24 person? Where's that person?

25 Lieutenant Gary, the lead investigator, he went and

1 spent two hours at Ms. Woodruff's home to get a statement.
2 She writes one. He doesn't like it. She writes another
3 one. Well, hey, you need to add a parenthetical down
4 here. He's not leaving that house until he's got my
5 client's name, and he's got the date he wants on there.

6 Remember, she told you she frequents the liquor
7 house. She goes there. Look at that statement. Look at
8 it. She says, Before I got to the liquor house -- she
9 puts somebody -- put Holmes out of the car. And I think
10 she said she wasn't sure if it was the 24th or not. And
11 then she said she picked him up and he wasn't at the
12 liquor house. She never puts him at the liquor house,
13 even in her statement that Lieutenant Gary wanted from
14 her. She never puts Mr. Davis with Mr. Clark, Little Man.
15 She never puts them together.

16 So the phone, I guess that's what he's going to tie
17 it to. But, however, it was a phone call. That's all we
18 know.

19 Also, he gets the tape about pleading the Fifth.
20 She's not pleading the Fifth. She got up here and
21 testified. He never told her she could have an attorney.
22 He never told her she didn't have to give a statement. In
23 fact, he stayed there two hours until he got one, or more.
24 He kind of -- he downplayed it, oh, no, I didn't pressure
25 her into anything. He said two hours. If law enforcement

1 shows up at my house and stays two hours, I'm going to be
2 a little nervous. I'm going to feel like I'm being
3 compelled to do something, especially if I was a
4 22-year-old young lady.

5 Also, in that -- in that statement she gives, there's
6 no distance, no time listed, except for after 11:00, I
7 believe. We don't know where he was put out or if not --
8 if he was there anywhere near.

9 Also, Mr. Gary indicated that she was not a suspect.
10 If so and she'd have made any incriminating statement,
11 he'd have said, well, I need to read you your Miranda
12 rights. Why didn't he do that with Mr. Kilgore when
13 Mr. Kilgore plainly says on that tape, Then I shot first.
14 I mean, he'd been up all night. It was late. He just
15 glossed right over that.

16 Mr. Kilgore says, oh, I said I was in shock. No.
17 Listen to him. He doesn't use shock in that context.
18 Then I shot first. Then I shot first. The State wants
19 you to make sure you don't believe what you hear. Okay.
20 He shot first. Mr. Gary wants us to gloss over that, too.

21 Three guns out there per SLED -- or evidence of three
22 guns. They don't want to talk about the third gun. I've
23 already went over that. Despite the large number of
24 casing, they remained searching only one side of the
25 street.

1 But he considered Ms. Woodruff's car a quarter to a
2 half a mile away as part of the crime scene when he
3 searched her car. I think he testified that the car was
4 at the scene. I don't remember anybody saying the car was
5 at the scene, other than the statement that said she went
6 to the liquor house. The scene was [REDACTED]

7 Like I said, Mr. Gary got those two statements from
8 the two drunk guys. And he put all those -- he put all
9 his eggs in that basket and he shut down his case. He
10 hasn't pursued the third person that Mr. Kilgore and
11 Brewton says had a gun. He hasn't pursued the possibility
12 that Kilgore had a gun. He hasn't pursued the possibility
13 that the victim had a gun.

14 You heard from Dr. Wren. He said that the victim
15 died from what he calls a distance shot, at least,
16 12 inches away, or more. And you heard from him that the
17 trajectory or the path of the bullet's going to depend
18 upon where the victim was and where the bullet hit.

19 So we speculate that -- we -- we think that the
20 victim is standing up, but we don't know for sure. But we
21 do know that it is a distant shot. There's no soot on
22 there.

23 Then we heard from SLED Agent Nates. She can't deny
24 the fact that there's gunshot residue on the victim's
25 hands. She testified to that. And then she says, well,

1 80 percent of the victims that die have it on them. Would
2 it be necessarily on their hands? Remember, he shot up
3 here, not down here.

4 It's very, very possible and probably quite correct
5 that Mr. Hull was armed. Why else would you confront
6 somebody, six -- five to six people that you think had
7 guns and say the things he said, and behave in the manner
8 he did? He's armed. Mr. Kilgore's armed.

9 And then we talk about the gunshot residue kit.
10 What's it take to get rid of that? You can wash your
11 hands, blood. Think about that. Think about Mr. Brewton
12 and Mr. Kilgore and how fast they got out of there. Their
13 cousin's laying over here gasping his last breath. Who
14 are they worried about? They're worried about getting the
15 hell out of there. They're worried about themselves.
16 They don't want to hang around when law enforcement gets
17 there. They don't want to be there when EMS gets there.
18 They get in the car and go.

19 Let's talk about Ms. Geter. We'll go to our other
20 cast of characters. What'd she say she was doing?
21 Wasted, having fun, getting drunk. So that's a pretty
22 common theme with these folks that we are dealing with
23 here at the liquor house.

24 Somebody calls out Mr. Hull, and he's going to go
25 home. He's -- and Ms. Geter's not at the liquor house.

1 She's over here at [REDACTED] Mr. Hull's over here at the
2 liquor house. He's done been into it with one person.
3 Mr. Kilgore is coming from the liquor house. He's been
4 into it with one or two people. Okay. They're already a
5 little bit edgy.

6 What does Mr. Hull do? He didn't go over and ride
7 over with those other four guys. He went into Ms. Geter's
8 house, put on his shoes, takes his flip flops off, and
9 puts on his sneakers, and gets his things. Nobody
10 elaborated on what his things were. Nobody elaborated on
11 why he needed to change shoes at 1:30 in the morning to go
12 home, presumably, to go to bed. You can make -- you can
13 use your own common sense on that. He's going to need
14 those shoes to fight. He can't be out there fighting in
15 flip flops. He gets his things. He's got gunshot residue
16 on his hands.

17 In that statement from Mr. Kilgore -- you listen to
18 it. He says that Mr. Hull went out there with them guns.
19 Does that mean Mr. Hull had a gun, he had -- among other
20 guns? Listen to Mr. Kilgore's statement again.

21 What does Ms. Geter say? She says that Hull told
22 them, What y'all going to do? Are y'all going to fight,
23 or are you going to shoot? It sounds like he was ready to
24 do either. Remember, he's related to Mr. Brewton. He's
25 related to Mr. Kilgore.

1 She says that -- Ms. Geter says she can't identify
2 anyone that's on the street. She's on the porch for a
3 while. It's dark. It makes sense that she can't see out
4 there. She didn't remember what time it was.

5 Her sister, Anita Geter, what's she doing? She's on
6 the porch drinking. She saw nothing. She went in and
7 called 911 when the fight broke out.

8 What about James Kilgore? What'd he tell you? He's
9 at the liquor house. What's he doing? I get drunk and
10 have fun. Family's there. He's already involved in some
11 fights -- a couple of fights over there -- or breaking
12 them up. He's in the automobile with Red, Boobee, and Bee
13 Bee [sic], that's Mr. Burton -- Brewton, Bruce Brewton,
14 Mr. Young, and Mr. Brannon. At one point, they wind up in
15 a conflict out in the street.

16 Now, he says that Mr. Clark, Little Man, says, hey,
17 okay, let's go, we'll do a one-on-one. Listen to that
18 statement. He's says, we'll shoot a one-on-one.

19 Now, Mr. Brewton tried to downplay that and make it
20 sound like a fight. He said, oh, it's a fight, one round,
21 two rounds, 15 rounds. Listen to the tape, we'll shoot a
22 one-on-one. That's what he -- that's where he went with
23 that. It's another -- evidence -- circumstantial evidence
24 that -- that Kilgore's wrong. Listen to him. He says,
25 then I shot first. Nobody's ever followed up on it.

1 He indicates that he saw two guns out there. That
2 second gunman, we don't know anything about him. It's a
3 mystery. Because if you -- if you notice, him and
4 Brewton, later on, they make -- they make sure they go out
5 of their way to kind of get away from Little Man being
6 responsible for anything.

7 Okay. At first, you know, Little Man's at -- at
8 fault. And then they start fading away from that. Why?
9 He's like family. Listen to the tape. Oh, he's like
10 family, man. Blood's thicker than water. These -- this
11 family -- this is a whole theme with the family here.
12 He's not going to -- he's not going to put Mr. Clark in a
13 situation where he's going to get in a lot of trouble, it
14 looks like.

15 At first, he does. But then he starts backing away,
16 him and Mr. Brewton. At first -- but if you remember,
17 Mr. Clark is mentioned early on. And then Mr. Kilgore
18 gives the first statement.

19 Mr. Brewton is supposed to come to the sheriff's
20 office when he gets out of the hospital that day and give
21 a statement. He didn't come for three days. And he had
22 contact with Kilgore in between.

23 Kilgore gave him my client's name. Because Brewton
24 said he didn't know my guy. Mr. Kilgore states he knew my
25 guy when he was young. He's seen him a few times through

1 the years. And he wants to act like he's absolutely sure
2 it's my guy.

3 Now -- well, we know one thing, my guy is not family,
4 not with him. Mr. Kilgore is going to indicate that he
5 can positively identify him. It's dark. And what do we
6 know about Mr. Kilgore? Getting drunk, having fun,
7 wasted. Okay. It's a common theme that night with these
8 folks.

9 He testifies, too, that him and Little Man are
10 face-to-face. They're going to fight. But then he says
11 things calm down. They back away. Then what happened?
12 Mr. Hull comes charging in.

13 Remember, Mr. Hull is going to put his shoes on.
14 He's done that. And he's got his things. He's probably
15 in the same shape that his buddies are in because he's
16 been at the liquor house, too.

17 And he goes up and engages these folks again. He
18 starts it all over. And just like he popped that thing
19 there, something happens in a hurry.

20 I think the State wants you to think, well, malice
21 aforethought, boom, it was automatically put into
22 someone's head and then shot, whoever the shooter was.
23 Look at what Mr. Bruce Brewton testified to. He comes out
24 there, F your guns, F y'all. Y'all think you're the only
25 ones that got guns. It's not a reasonable way to behave.

1 Unreasonable behavior results in any kind of responses.

2 Also, Mr. Kilgore, as I stated, forgot to mention
3 Mr. Brannon. Mr. Brannon is there, and he disappears. We
4 haven't seen him for over a year.

5 Then Mr. Kilgore in a very excited utterance, a very
6 excited manner calls 911 four different times, maybe five,
7 I don't know the dude. I don't know the dude. I don't
8 know the dude who shot me. I don't know. That's -- this
9 is fresh off -- supposed to be fresh off of the incident
10 occurring. I don't know. I don't know who he is.

11 He gets to the hospital. And here we go with Little
12 Man's name again. He just -- he throws up my guy's name.
13 But then he told you up here he doesn't see him much. He
14 saw him a few times over the years. It's dark out there
15 and he's drunk. What I want you to take away from
16 Mr. Kilgore is that he's drunk, it's dark. He's seen my
17 client a few times through the years.

18 And, remember, he and Bruce -- Bruce Brewton both
19 testified they never had seen my client at that liquor
20 house. My client didn't go to the liquor house. He had
21 no business over there.

22 Also, I think he identified people wearing white
23 T-shirts. Also, listen to his tape, listen to his audio.
24 He'll contradict himself several times in there. He'll
25 say, yeah, Holmes didn't say nothing. And then he'll go

1 into saying that Holmes -- whatever -- whatever he
2 supposedly said. Then he'll say -- he'll get to the
3 point, he's just like yada, yada, yada, blah, blah, blah.
4 He don't -- he gets to the point where he starts talking
5 and then, I think, he slows down. He doesn't want you to
6 hear. It's that he doesn't want to make a mistake.

7 He's pretty clear that around the eight-minute to
8 9:30 mark that Hull reignited the confrontation. Robert
9 had done run up on them with a gun. Okay. Robert Hull,
10 the guy with gunshot residue on his hands, the guy that
11 said, screw your guns, screw you. You ain't the only ones
12 that got guns.

13 And then at 9:05 to 9:15, he says, I turned around
14 and I shot first. And that is when I heard shots coming
15 that way. In that sentence, he says, I shot first, then
16 they start shooting back. Like I said, with unreasonable
17 behavior, you get any kind of results. He created a
18 situation that led to that.

19 And Mr. Kilgore, he's being truthful, which I think
20 he was. It was an excited interview there. It was the
21 same night. He hasn't had time to make anything up on
22 that part. He says it. And then he tries to say, well, I
23 was in shock. Shock don't fit in the sentence. Listen to
24 it. He didn't say I turned around, like, and shock first.
25 He said, I shot first. Officer Gary had been up all

1 night. He was probably writing down his next question.
2 Who knows.

3 Also, Mr. Kilgore states in there that Little Man
4 says, I'll shoot a one-on-one with you right now. So I
5 started walking toward that way. I'll shoot a one-on-one.
6 That means both guys are armed more than likely.

7 Also, I want you to take away from this how fast they
8 got out of there. One was shot to the foot, one was shot
9 to the legs and ankle. And this gentleman's lying over
10 here dying. And they get the hell out of there. They
11 don't want to be around when the police show up. They
12 don't want to be around when EMS shows up. They're going
13 to take care of Bruce, and they're going to take care of
14 Kilgore. And then they're going to take care of business.

15 Also, you can listen to that tape in its entirety.
16 Like I say, the State don't want you to believe what you
17 hear on that tape. It's in. And I believe it. I believe
18 that's what happened. I believe he shot him first and
19 then shots came back at him.

20 Ms. Herring testified that she saw two people -- two
21 to three people get into a Lexus. She, also -- she, also,
22 spoke about a very chaotic scene. And she, evidently,
23 gets there before the police -- goes by there before the
24 police did. Mr. Kilgore and Mr. Brewton are gone. But
25 the body's there.

1 She says it's -- she believes he's lying on his side
2 a little bit. And she made the comment, Nobody was
3 helping him out. Somebody was on the phone there. But
4 nobody was tending to him. She does see him on his side.

5 She does say it's very chaotic. There's more than 20
6 people running around out there. There was a lot of
7 people there. There was a lot of people at that liquor
8 house. There was a lot of people in that area. We're
9 talking about places that are side by side, one or two
10 doors down. And it's chaos.

11 The liquor house -- remember, the first witness said
12 I could hear -- I could hear the liquor house going on.
13 And it's a rough environment down there. And it's
14 chaotic. Who do you know? Who -- you know, who do you
15 see that you know when you identify everybody that comes
16 by you?

17 What about Brewton? It's a common theme with our
18 witnesses this week. I was at the liquor house. He
19 wasn't just drunk, he said wasted. He's wasted. He's
20 never seen my client before, never. But -- but he's
21 wasted. And in the dark, he says he can identify him.
22 He's seen him one time while he was wasted.

23 He's providing rides for these guys. The four of
24 them go. And he indicates -- also, Little Man -- he and,
25 Mr. Clark, and Mr. Kilgore are going to fight. But -- and

1 he, also, describes people in white T-shirts. He fails to
2 mention Mr. Brannon as well. He testifies that -- about
3 it because I had -- because it had become an issue. He
4 indicates two people have guns.

5 But he, also, states that he got everything situated.
6 He got the parties separated. In his statement and when
7 he testified, he said he got everything situated or
8 squashed. The one-on-one that Little Man and Mr. Kilgore
9 were going to do is over. But he does say they were going
10 to fight. Listen to Mr. Kilgore's statement.

11 He, also, testified that Mr. Hull got the whole thing
12 started again. Remember, Mr. Hull has gone in and put his
13 shoes on, got his things, and he's come out. He's ready.
14 He starts bumping into the shooter -- one of the shooters
15 pushing him. F you, F your guns. You ain't the only ones
16 that got guns. He read that out loud. He read that to
17 you from his statement that he gave police three days
18 after he -- after this event.

19 He stated, also, that Mr. Hull was shot and fell face
20 first. He completely went to the ground. He wasn't
21 even -- he wasn't able to brace himself.

22 You saw the situation where the body was. The police
23 arrive. Did somebody move the body? More than likely,
24 the two guys around him. You can make that inference.

25 What else did they do? Did they remove anything?

1 There's gunshot residue on his hands. Remember, these are
2 all family members. They're all family. They're going to
3 watch out for one another.

4 As I stated, he waits three days to go to the
5 sheriff's office to give a statement that he was supposed
6 to give when he left the hospital three days earlier. And
7 in that time, he did testify that he and Mr. Kilgore had
8 been together. In fact, Mr. Kilgore gave him my client's
9 name.

10 What else about Mr. Brewton? He never would sign off
11 on an affidavit that he -- anybody could positively --
12 positively identify anybody.

13 What about Mr. Brannon? We find out in August of
14 2017, he was on the scene. He disappeared. Why? Where'd
15 he go? What did he do? We don't know. We can't -- we
16 don't know. We don't know where he went. We don't know
17 what he was doing there. We don't know.

18 What about the other people on the street? You heard
19 testimony there was, at least, one more gunman out there.
20 They're not worried about him, I guess. They didn't
21 canvas the scene. They didn't search for him. Three
22 others are possibly a part of the group. They don't know
23 where they are. Bryson saw five guys. He saw two in
24 dreads, and two -- three without them. I think
25 Mr. Kilgore confirmed that my guy did not have dreads.

1 What about Mr. Simpson, my client? Brianna never
2 puts him with Little Man. She never puts him at the
3 liquor house.

4 What about that small window of time when he
5 supposedly got this call, and then he was able to get all
6 the way over to the liquor house? And then he's gone
7 somehow. But it's 12, 13 minutes supposedly that he was
8 able to come from the south side from wherever he was and
9 get over here.

10 We don't know that he had -- that he even answered
11 the phone, or that he made a phone call. That's just what
12 the phone records show. To be quiet honest with you, I'm
13 sure a lot of people can't explain what's on their phone
14 if you've got other people that use it, if you've got
15 kids. I do. I don't want to be responsible for all the
16 things on there, all the calls made.

17 Also, I put my client's family up yesterday briefly.
18 I just wanted you to see that he's -- he comes from a good
19 family. They're good people. He comes from a good
20 family. And, also, that he was home helping a move -- a
21 relative move. And he's at home later in the night --
22 that night.

23 Also, our cast of characters. I want to talk about
24 Mr. Hull, the victim of the murder. The testimony puts
25 him at the liquor house. You've got Hull, Kilgore, and

1 Brewton all at the liquor house. They're all family
2 members. They're all related. They're cousins, I believe
3 they said.

4 He, also, was involved in a fight at the liquor
5 house, he and Mr. Kilgore both. They were feeling a
6 little tough that night. He goes to Ms. Geter's because
7 he's going to take a ride from Mr. Brewton. He's already
8 been into it with these guys one time at the liquor house.
9 Remember, he goes and changes his shoes, gets his things.

10 It's obvious he sees somebody in the street.
11 Because, like I said, Mr. Brewton says he's got everything
12 cooled off, every -- this thing is over. Mr. Hull comes
13 back in a very volatile and violent way. He's going out
14 there to fight. F y'all. F your guns. I got -- you
15 ain't the only ones that got guns.

16 Brewton and Kilgore testified, oh, no, we didn't have
17 guns. Hull didn't have a gun. They want you to believe
18 that Robert Hull would approach armed people and say those
19 things, indicate that he's got guns. I don't believe he
20 would. I wouldn't. No reasonable person would do that.
21 But a person that's armed, they would feel like that's a
22 level playing field, and they might make that approach.
23 Remember, he's got the gunshot residue on his hands.

24 Also, Mr. Brewton puts him physically attacking one
25 of the shooters. A chest bump, or whatever, pushed him,

1 shoved him. Remember, SLED said there's three guns out
2 there -- or there's evidence of three guns. Remember that
3 the large number of casings far outweigh the number of
4 bullet fragments found.

5 Hull, in my opinion, creates the whole second
6 scenario. And he illicitly a response much like his own
7 from whoever shot him. Remember, he'd been to the liquor
8 house. He's probably in the same condition as Kilgore and
9 Brewton indicated they were.

10 The evidence on the record can infer that there's a
11 weapon in his hand that was fired. Remember the kit, the
12 GSR kit. Like I said, the lady from SLED, she downplayed
13 that. She said, well, 80 percent of dead victims have
14 gunshot residue on their hands. Where does she work?
15 State Law Enforcement Division. Obviously, she's going to
16 be impartial to law enforcement.

17 Back to the facts. He's got the residue on his
18 hands. He was shot up here from -- at more than 12 to 14
19 inches away, per Dr. Wren. And I believe Mr. Brewton, he
20 would have been in between the two partially. Remember
21 the family ties here. Kilgore, Hull, Brewton, they are
22 blood -- related by blood, cousins, drinking buddies, too.

23 But, remember, they got -- they got out of there.
24 And I would imagine it's tough to face your family when
25 you left somebody laying there like that. You've got to

1 have a scapegoat somewhere. Unfortunately, that's what
2 Mr. Davis has become.

3 You go out there shooting, armed, and then you -- you
4 create a situation where one of your kin gets killed. It
5 would be tough to face the family. That's what we're up
6 against here. Blood's thicker than water, guys. They're
7 not going to take responsibility for it. They're going to
8 put it off on somebody else. And that's where my client
9 comes in.

10 If you back away from Little Man -- because if you
11 listen to that statement, yeah, he's like family. I don't
12 know. He may be family. I don't know. And, now, they've
13 got my -- my client's the only one left. Remember,
14 Kilgore knew my client when my client was young. He'd
15 seen him a few times over the last few years.

16 Brewton, prior to that night, never had he seen my
17 client. He didn't know my client. Three days later after
18 speaking to Mr. Kilgore, he identifies him. He still
19 won't sign off on any affidavit to identify him.

20 Remember, this situation was in the streets. It was
21 down here at [REDACTED] and it gets quashed,
22 according to Mr. Brewton. Mr. Hull cranks it back up.

23 What did you drink at the liquor house? Liquor. I
24 don't drink liquor. It's a very strong alcoholic
25 beverage. It's much stronger than a beer. They had been

1 there for quite sometime.

2 Mr. Hull, remember, he went to get his things. He
3 went to change his shoes. While drunk, this volatile
4 behavior resulted in a bad situation that was already
5 quelled, according to Mr. Brewton. It was quashed.

6 Mr. Hull comes back. Think about reasonable
7 behavior. Think about unreasonable behavior. Think about
8 creating a situation that is going to illicit a response
9 that may not be in your best interest. Think about the
10 holes in this case the State has.

11 Like I say, Investigator Gary, he spoke with those
12 two guys. He spoke with Kilgore while Kilgore is,
13 obviously, still feeling the effects of the liquor house.
14 And then he talked to Brewton later on.

15 And what about Brewton? He told you from the stand
16 he was wasted. He was going to jump in the car and take
17 people home, though. Brewton had three days to discuss
18 this situation with Mr. Kilgore. Mr. Kilgore told him a
19 name. Unfortunately, that name is my client.

20 Mr. Kilgore, also, if you listen to that tape, took
21 the first shot. I shot first. That's when the shots
22 started coming from there, or something along those lines.
23 Again, if you're out there shooting, people shoot back.

24 Let's talk about the attempted murders. Both
25 gentlemen testified they don't know who shot them. More

1 than likely, somebody was running down the road and they
2 started shooting and it was ricocheting off the road.
3 There's no evidence my client did that. There's no
4 evidence that there's any malice aforethought, in my
5 opinion, on that murder because it -- that happened so
6 quick. It was quelled. Mr. Hull brought it back.

7 Now, Judge Cole is going to charge you shortly. He's
8 going to talk to you about reasonable doubt, the burden of
9 proof. I told you from the beginning, we don't have the
10 burden of proof. We could sit over here and do crossword
11 puzzles.

12 The burden's totally on the State. The State's two
13 main witnesses, I'm asking you to judge their credibility.
14 I'm asking you to judge that video -- that audio of
15 Mr. Kilgore. Consider Mr. Brewton being in a situation
16 that he has created to discuss what he tells officers from
17 Mr. Kilgore. Consider the fact he won't sign off on a
18 sworn statement as to identification.

19 Consider the environment, the liquor house. It's
20 chaos. 20 people plus are running everywhere, according
21 to Ms. Harold [sic]. Consider the fact that the --
22 Mr. Hull and his behavior. Just consider all that. Read
23 through that -- I mean look through your -- that audio.

24 Remember what Mr. Brewton read to you. Yet, they
25 want you to believe he goes out there without a gun in

1 that manner. I don't think so. I don't think so.

2 The Judge is, also, going to talk to you about
3 reasonable doubt. He'll explain that much better than I
4 can.

5 The State wants you to come back with a verdict based
6 upon family members who were in search of a scapegoat, who
7 were in the liquor house wasted, drunk, and created a
8 volatile situation, calmed it down. But then their cousin
9 got shot. Mr. Kilgore shot first. His cousin was
10 probably armed, too. That kind of environment is going to
11 illicit some kind of response.

12 Guys, I told you already you've been the most
13 attentive, and in tune, engaged jury I've had in many
14 years. And I appreciate your service.

15 As I stated in my opening, always the jury system
16 separates us from other countries. Some countries are not
17 going to put a jury of your peers in a box and afford you
18 the opportunity to have your day in court. Fortunately
19 for us, you guys have spent a week in court. And I
20 appreciate your patience. I appreciate your willingness.
21 And it's a sacrifice. I know it is.

22 I ask you guys to take very, very seriously these
23 charges. Consider the source of the testimony provided
24 against my client. Consider this young man right here.
25 Consider him. And just think about the situation. And,

1 you know, consider the -- the long term effects on my
2 client, and yourselves, and the Court system.

3 I ask you to go back, analyze everything, take your
4 jobs very seriously. And I -- and I can tell you guys do
5 that, you do that.

6 Listen to that audiotape of Mr. Kilgore. Remember
7 those statements Mr. Brewton gave you about what created
8 that second -- that second scenario where
9 Mr. Kilgore [sic] engaged those folks.

10 I ask you guys to do all that. And, in the end, I
11 think you're going to come back with not guilty on all
12 charges.

13 I do really sincerely appreciate your time, guys.

14 THE COURT: Mr. Hunter.

15 MR. HUNTER: May it please the Court.

16 This is the time where I get to reply to what he just
17 told you. I've written down some things that he has
18 talked about to you that I want to bring up.

19 First, he mentioned multiple times that Mr. Brewton
20 and Mr. Kilgore left Mr. Hull lying on the ground gasping
21 for breath. We heard from Dr. Wren yesterday. Death was
22 instantaneous. He's not lying on the ground gasping for
23 breath. They didn't leave him there with a chance to have
24 him survive if they had given him help. He was already
25 dead.

1 He, also, asked about the casing in the driveway.
2 He's trying to say that Mr. Kilgore -- Mr. Hull had a
3 weapon. There should be a casing in the driveway.
4 Mr. Kilgore shot, that's his story.

5 I want to remind you from all the witness
6 testimony -- and, again, you're only supposed to take the
7 testimony and the evidence back with you. I want to
8 remind you, all of this, those are bullets and
9 projectiles. No guns, no shell casings where the
10 deceased, Mr. Brewton, or Mr. Kilgore are. Not a single
11 shell casing where they were standing. Not a single
12 projectile recovered this way. The shell casings were
13 recovered here, projectiles this way.

14 Now, there were five projectiles recovered. Three of
15 them, according to Chad Smith, were .45 caliber, one from
16 in here, and two more up towards the residence. There
17 was, also, a nine millimeter -- or, as he said, a .380
18 standard, which could be a nine-millimeter projectile, was
19 found in this area.

20 There was, also, as he stated, a .40 caliber
21 projectile found in this area. We have nine-millimeter
22 shell casings, .45-caliber shell casings. And we don't
23 have a .40-caliber shell casing.

24 But I want to remind you where that was found. If
25 Kilgore is shooting first, then why is he shooting at the

1. house? That's because if you listen to the tape -- my
2. mother is an English teacher. She taught for 30 years.
3. She retired. She's come back. She's an English teacher
4. at Greer High School. She's big on context. And she's
5. probably -- if she would have sat back there, she would
6. have already had a list of some of the grammar that I've
7. done wrong, said wrong.

8. But if you listen to that interview and listen to how
9. he is talking about what happened, you will see that he's
10. talking about them shooting first, and that he was in
11. shock, not that he shot.

12. And what's funny is that Mr. Thompson wants you to
13. believe because he has GSR -- Mr. Hull has GSR on his
14. hands that he shot a weapon, too. But then he wants you
15. to completely ignore the fact that James Kilgore had no
16. GSR on his hands.

17. He, also, talks about Brianna Woodruff never putting
18. Mr. Holmes Simpson-Davis at the liquor house. There is no
19. evidence -- I'm here to tell you today there's no evidence
20. from the witness stand, from the statements, from the
21. evidence that you'll get back -- from the actual pieces of
22. evidence that you'll see that Mr. Holmes Simpson-Davis was
23. ever at the liquor house.

24. In fact, what she says is she drops him off. And
25. then she picks him back up before she ever gets to the

1 liquor house. I'm here today to tell you, Holmes
2 Simpson-Davis was never at that liquor house. None of the
3 witnesses put him there. But he doesn't have to be at the
4 liquor house, because the shooting happens at [REDACTED]. It
5 does not happen at the liquor house.

6 He, also, said that if the police were at his house
7 for two hours, he was going to be compelled to do
8 something, "I'm going to be compelled to do something."
9 You know what I'm going to be compelled to do? Tell the
10 truth. If they're asking me about what happened the night
11 of the murder, tell the truth.

12 And they knew from talking to Ariel Moore-Herring,
13 they knew from the cell phone examinations that her first
14 statement was false. They confronted her with that. And
15 that is why she wrote the second statement.

16 Now, after writing that second statement, who does it
17 implicate? It implicates him. But you're friends with
18 him. You've just implicated him. And that's why on those
19 jail phone calls, he tells her to plead the Fifth. Tell
20 them that second statement was false. If you tell them
21 that, then they can't put me there, except for Bruce
22 Brewton and James Kilgore.

23 He, also, talked about how there was a third person,
24 a third person shooting. I think there were only two
25 people shooting. We only have a .45 and a nine. All

1 these shell casings were recovered.

2 We heard from Christopher Bryson that he saw two
3 people. Christopher Bryson who doesn't know anybody saw
4 two people shooting behind their backs, two, not three,
5 not four, two, a .45 and a nine. We don't know who that
6 second person is. Bruce Brewton doesn't know who that
7 second person is. James Kilgore doesn't know who that
8 second person is. Neither do Angela or Anitra Geter.

9 The police never got any evidence of who that second
10 person is. So they can't be looking for someone if they
11 don't know who it is. But they know who one person is,
12 they know it's Holmes Simpson-Davis.

13 Now, Mr. Thompson, also, focused a lot on Felshunti
14 Clark. As I told you when I first stood up here, today is
15 Holmes Simpson-Davis' day in court, not Felshunti Clark's,
16 but it's Holmes' day in court. Now, remember that when
17 you go back there. We're not deciding Felshunti's guilt.
18 We're deciding Holmes Simpson-Davis' guilt.

19 He talked about how Bruce Brewton and Mr. Kilgore got
20 the hell out of there. And you have the 911 tapes from
21 Mr. Kilgore, which matches up with Mr. Brewton's testimony
22 about how they were getting in the car. Mr. Kilgore was
23 on the phone getting in the car, too. Both had been shot.
24 Both needing to get to the hospital.

25 The hospital is not that far away. They're on Howard

1 Street. You can turn on California, go down, and it's
2 really not that far away. If you've been shot and you
3 wait on scene for the ambulance to get there when you can
4 get to the hospital faster than the ambulance can get to
5 you, yeah, they got the hell out of there. Because they
6 had been shot. That's what people do. That's what's
7 reasonable.

8 He, also, talked about how the story of Mr. Brewton
9 and Mr. Kilgore changed from when the police first
10 interviewed them until later, and it did. Their first
11 story was, I didn't see nothing, I don't know nothing, I
12 don't know who shot.

13 But, as you heard from Mr. Brewton and Mr. Kilgore,
14 they were going to take care of it themselves. But they
15 realized -- at this point, Mr. Kilgore came to the
16 interview a few hours later. Robert Hull was dead.
17 Thankfully, they did tell the police what happened so the
18 police could do their job, and Mr. Hull's family can have
19 justice.

20 He, also, brought up the fact that Mr. Hull went and
21 got his shoes and got his belongings. We don't know why
22 he went to put his shoes on. You know, his theory is that
23 he went to put his shoes on to go get into a fight. But
24 only Mr. Hull knows why he put his shoes on. We can't ask
25 him today because Mr. Holmes Simpson-Davis killed him.

1 Felshunti Clark started this fight. Holmes
2 Simpson-Davis finished it.

3 Thank you.

4 THE COURT: We're going to take a short break. And
5 I'm going to let the Clerk come in and take your lunch
6 orders. And then that'll be prepared and delivered while
7 I'm giving you the instruction.

8 So if you'll, please, go to your jury room. Don't
9 discuss the case. The Clerk will take your lunch order.
10 And then I'll bring you back in.

11 (WHEREUPON, the jury was excused from open court at
12 approximately 11:39 a.m.)

13 THE COURT: We'll be at ease for 15 minutes.

14 (WHEREUPON, a break was taken.)

15 THE COURT: All right. Bring the jury in, please.

16 (WHEREUPON, the jury came into open court at
17 approximately 11:59 a.m.)

18 CHARGE ON THE LAW

19 THE COURT: Ladies and gentlemen, you, of course,
20 have heard and seen all the evidence in the case. You've
21 now heard the final summations of the lawyers. And,
22 therefore, it now becomes my duty and obligation to
23 instruct you on the law that's applicable. You'll then be
24 asked to go back and to begin with your deliberations.
25 And through that process, you'll examine all the evidence,

1 you'll determine the facts, you'll apply the law. And
2 you'll arrive at a fair and just decision, whatever that
3 decision may be.

4 It is your exclusive prerogative to determine what
5 the facts are as they relate to the allegations made in
6 the case. You determine those facts based upon your view
7 of all the evidence received during the course of the
8 trial in the exercise of good judgment and common sense
9 conscientiously applied to that testimony and evidence.
10 Your sole objective is to simply render a fair and
11 impartial decision based upon evidence presented and the
12 law that's applicable, as I will have provided it to you.

13 Now, in this case, as you know, the Defendant is
14 Holmes Andrew Simpson-Davis. As you know, he's been
15 accused by the Prosecutor of having committed six separate
16 and distinct offenses. All are alleged to have arisen out
17 of one particular event or a course of events, which the
18 State alleges occurred back on July the 25th of 2015. But
19 there are -- there are six separate and distinct charges.
20 And you will be called upon to render six separate and
21 distinct decisions as it relates to those separate
22 charges.

23 There are three indictments. Each indictment
24 contains two charges. Indictment 2016-1735 charges the
25 Defendant with murder and possession of a firearm during

1 the commission of a violent crime. That indictment
2 alleges that Mr. Holmes Andrew Simpson-Davis did here in
3 Spartanburg on July 25, 2015, willfully and with malice
4 aforethought kill one Robert Lee Hull by shooting him with
5 a handgun. And that he died as a proximate result of that
6 gunshot wound.

7 Count two of the indictment alleges his possession of
8 a firearm during the commission of that violent crime.
9 Murder being classified as a violent crime under the law
10 of this state.

11 Indictments 16-1734 and 1736 each charge the
12 Defendant with attempted murder and possession of a
13 firearm during the commission of a violent crime. The
14 State alleges by way of each of these indictments that
15 Mr. Davis did commit the crime of attempted murder, and
16 that he did with malice aforethought attempt -- excuse me,
17 attempt to kill Bruce Brewton, that's set forth in one
18 indictment, and James Kilgore, that's set forth in a
19 separate indictment. And that he shot them with a handgun
20 with the intent to kill each of those persons.

21 And counts two in each of those indictments charges
22 him with possession of a firearm during the commission of
23 a violent crime. The violent crime being the attempted
24 murder alleged in each of those separate indictments.

25 So there's six separate charges. Your verdicts may

1 be the same. They may be different. That, obviously,
2 will depend upon your determination of the facts as it
3 relates to the allegations contained in a particular count
4 of the indictment, and then your application of the law as
5 I will have provided it to you as it relates to that
6 charge.

7 Now, as to each of the charges contained in each of
8 the indictments, the Defendant has entered a plea of not
9 guilty. And, as I've told you, that plea of not guilty
10 has placed upon the State the burden of proving the
11 allegations that they have set forth in each of those
12 indictments, the burden of proving each of the essential
13 elements of the crimes charged in each of the indictments.

14 And, therefore, the burden is upon the State to
15 establish the Defendant's guilt to the satisfaction of you
16 12 jurors beyond a reasonable doubt before any verdict of
17 guilty could be returned as to any of the charges made
18 against the Defendant.

19 As you know, the burden is upon the State to
20 establish the Defendant's guilt beyond a reasonable doubt.
21 The burden is never upon a Defendant or a person accused
22 of a crime to prove that they are not guilty, or to prove
23 that they are innocent. Because, in some cases, that
24 might not be possible.

25 It is a vital, important, and cardinal rule of law

1 that every Defendant in a criminal trial, no matter how
2 serious the offense might be for which that person stands
3 charged, that person shall always be presumed innocent of
4 that charge.

5 That presumption of innocence remains with any
6 Defendant, as it does with this Defendant, from the time
7 he is placed under arrest and throughout the course of the
8 criminal process, and even throughout the course of the
9 actual trial in the case.

10 As I told you, that presumption of innocence will be
11 with Mr. Simpson-Davis even as you go back into your jury
12 room to begin with your deliberations in this case. And
13 that presumption of innocence will be with him in that
14 jury room. And it'll be with him forever, unless you 12
15 jurors unanimously determine that he is no longer entitled
16 to that presumption of innocence as it relates to a
17 particular charge.

18 In other words, after you have considered all the
19 evidence in the case, you've considered the allegations
20 made as to a charge, you've determined the facts as they
21 relate to those allegations; you apply the law as I will
22 have provided it to you. If you determine that the
23 Defendant's guilt as to a particular charge has been
24 proven beyond a reasonable doubt, then he's no longer
25 entitled to that presumption of innocence. But it is only

1 if unless and until you are satisfied of the Defendant's
2 guilt beyond a reasonable doubt as it relates to a
3 particular charge that the presumption of innocence would
4 no longer be applicable.

5 Now, the State does have the burden of proving the
6 Defendant's guilt to your satisfaction beyond a reasonable
7 doubt. This does not, however, mean that the State has to
8 prove his guilt beyond all doubt, or beyond any possible
9 doubt. But it does require the State to prove his guilt
10 to your satisfaction beyond a reasonable doubt.

11 The term reasonable doubt should be given its plain
12 and ordinary meaning. A reasonable doubt is the kind of
13 doubt that would cause a reasonable person to hesitate to
14 act upon the information provided. The Defendant is
15 entitled any reasonable doubt that arises from the
16 evidence or lack of evidence in a case.

17 And if upon any factual issue essential to a finding
18 of a verdict of guilty you have some reasonable doubt as
19 to how that issue should be resolved, it would be your
20 duty to resolve that reasonable doubt in favor of the
21 Defendant. And, therefore, if upon your consideration of
22 the whole case you have some reasonable doubt as to his
23 guilty as it relates to a particular charge, then it's
24 your duty to resolve that reasonable doubt in his favor
25 and to return a verdict of not guilty.

1 Now, while there are various forms of evidence such
2 as photographs, documents, charts, testimony, and other
3 types of physical exhibits, there are really only two
4 types of evidence. And those two types of evidence are
5 direct evidence and circumstantial evidence. And a fact
6 in a case may be proven by either direct evidence, it may
7 be proven by circumstantial evidence, or it may be proven
8 by a combination of both types of evidence introduced
9 during the trial.

10 Direct evidence is the testimony of a person who
11 testifies from actual knowledge of that fact. It is
12 testimony by a person who has perceived the existence of
13 some fact by means of his or her senses, and then that
14 witness comes into court and they testify as to what they
15 have previously seen, or heard, or felt for that matter.
16 Direct evidence proves the existence of a fact directly
17 and does not require any deduction or inference in order
18 to establish that fact.

19 Circumstantial evidence, on the other hand, is the
20 proof of some other facts or a set of facts which, taken
21 either singly or collectively, may prove the existence of
22 a fact in question as a necessary consequence. That is by
23 a deduction or an inference.

24 And an inference is simply a deduction of fact that
25 may logically and reasonably be drawn from the proof of

1 some other fact, or set of facts. It is a fact not proven
2 by the direct testimony of a witness based upon their
3 personal perception as direct evidence is. But it is a
4 conclusion which might reasonably be drawn from the proof
5 of other facts.

6 In other words, you may infer that a particular event
7 occurred or that a particular fact exists based upon the
8 proof of sufficient factual circumstances, which would
9 reasonably warrant your arriving at a particular
10 conclusion.

11 The commission of a crime and any particular element
12 necessary to prove a crime may be proven by direct
13 evidence, or by circumstantial evidence, or by a
14 combination of both direct and circumstantial evidence.
15 The law makes no distinction between the weight or value
16 to be given to direct or circumstantial evidence.

17 However, to the extent that the State relies upon
18 circumstantial evidence to establish the commission of a
19 crime, all of the circumstances proven must be consistent
20 with each other and when taken together point conclusively
21 to the guilt of the accused beyond a reasonable doubt. If
22 these circumstances merely portray the Defendant's
23 behavior as suspicious, then that proof is insufficient
24 and it fails.

25 The burden rests with the State to prove the

1 Defendant guilty beyond a reasonable doubt, regardless of
2 whether the State relies upon direct evidence, or
3 circumstantial evidence, or a combination of both types of
4 evidence.

5 Proof beyond a reasonable doubt is proof that leaves
6 you firmly convinced of the Defendant's guilt as it
7 relates to a charge. There are very few things in the
8 world that we know with absolute certainty. And, in
9 criminal cases, the law does not require proof that
10 overcomes every possible doubt.

11 If based upon your consideration of the evidence, you
12 are firmly convinced that the Defendant is guilty of a
13 crime with which he stands charged, then it would be your
14 duty to find the Defendant guilty of that particular
15 charge. And if, on the other hand, you think there is a
16 real possibility that the Defendant is not guilty of a
17 crime for which he stands charged, then you must give him
18 the benefit of that doubt and return a verdict of not
19 guilty as to that particular charge.

20 Now, as I told you, you are the sole judges of the
21 facts in this case. And you are, therefore, necessarily
22 the sole judges of the credibility and the believability
23 of each witness that has testified during the course of
24 this trial. And you 12 jurors alone will decide what
25 weight, value, and effect to give any particular witnesses

1 testimony, or even portions of that testimony.

2 But there are several factors which you should take
3 into consideration in your assessment and in your
4 evaluation as to a particular witnesses believability and
5 credibility. And I'm going to list those factors for you.

6 You should consider the demeanor of the witness.
7 That is how the witness appeared to you when the witness
8 took the witness stand and testified before you. Was the
9 witness straightforward in responding to questions, or was
10 the witness hesitant or evasive in responding to questions
11 that were asked of that particular witness? Simply put,
12 did the witness appear to you to be telling the truth and
13 to have knowledge of the facts to which that witness has
14 testified?

15 You should, also, consider whether or not the
16 testimony of a witness is consistent or is it inconsistent
17 with that witnesses own testimony or with other statements
18 made by that witness, whether in court or outside of
19 court. And you should, also, consider whether or not the
20 testimony of a witness is consistent or is inconsistent
21 with other testimony or other evidence received during the
22 course of the trial.

23 You should, also, consider how the witness came to
24 know the facts to which that witness has testified. In
25 other words, what was that particular witnesses

1 opportunity and ability to perceive the existence of those
2 facts to which that witness has testified to? And then
3 what is that witnesses ability to be able to come into
4 court and to accurately recollect to you as to what they
5 have previously perceived?

6 You should, also, consider any bias, or prejudice, or
7 interest that a witness might have in the outcome of a
8 case. In other words, if you find some reason that a
9 particular witness would come into court and would testify
10 one way or another to help or hurt one side or the other.

11 And you may consider any interest that the witness
12 might have in the outcome of a case, if you determine that
13 a witness does have such an interest and you find that
14 that interest would bear upon that particular witnesses
15 credibility. And you should, also, consider whether or
16 not the testimony of a witness is strengthened or is it
17 weakened by other testimony or other evidence received
18 during the course of the trial.

19 Now, you, as the judges of the facts and you as the
20 judges of the credibility of each of the witnesses that
21 have provided testimony in this case, are permitted to
22 believe as much or as little of what a witness has
23 testified to as you deem is appropriate in the exercise of
24 good judgment and common sense.

25 And so you may believe everything that a witness

1 testified to. You may choose to believe none of it. You
2 may believe some portion of a witnesses testimony, and
3 reject some other portion of that same witnesses
4 testimony. In a given case, you may believe one witness
5 as opposed to several, or several as opposed to one.

6 But whatever your good judgment and common sense
7 tells you is the most believable and credible testimony is
8 the testimony you should accept. And you should reject
9 any testimony that you find not to be credible or
10 believable. Again, your sole objective in the case is to
11 render a fair and impartial decision based upon the
12 evidence presented and the law that's applicable as I will
13 have provided it to you.

14 Now, the same law that provides that you are the
15 judges of the facts, also, provides that I am the judge of
16 the law. And that simply means that nobody is going to
17 tell you how to arrive at your determination of fact in
18 this case. You do that, as I've already stated, through
19 the exercise of good judgment and common sense
20 conscientiously applied to the testimony and evidence in
21 the case. You must, however, under your oath as a juror,
22 accept the law as I provide it to you as being the law
23 that you are to apply in the case.

24 In other words, you're not to concern yourself with
25 what you thought the law was before you came to serve as a

1 juror this week, or what you think the law ought to be.
2 Under your oath, as a juror, you must simply accept the
3 law as I provide it to you as being the law that you are
4 to apply in the case. And then you simply take that law
5 and you apply it to the facts as you 12 jurors determine
6 those facts to be, based upon your common sense
7 examination of all the testimony and evidence received
8 during the trial.

9 Now, in this case, as you know, the Defendant has
10 been charged with the crimes of murder, attempted murder,
11 two separate counts, and then three counts of possession
12 of a firearm during the commission of a violent crime.
13 The violent crimes being the murder and the two attempted
14 murders.

15 I'm going to instruct you on the law as it relates to
16 the law of murder and attempted murder. I'm, also, going
17 to instruct you on the law as it relates to the lesser
18 included offense of aggravated assault and battery as that
19 relates to the two charges of attempted murder. And then
20 I'll instruct you on the law as it relates to possession
21 of a firearm during the commission of a violent crime. So
22 the first instruction is going to be related to the crime
23 of murder as charged in one of the indictments.

24 Murder is a statutory offense. It's set forth in
25 16-3-10 of the Code of Laws of South Carolina. And that's

1 these blue volumes you see. They've got lots of laws, and
2 rules, and regulations. Some of those laws are criminal
3 penalty statutes. And it just simply means that the
4 legislature meets and they define certain conduct that we
5 are not to engage in. And, if we do, we're subject to
6 some form of punishment or penalty for engaging in that
7 conduct in violation of that statute.

8 So, in this case, murder is against the law. And
9 it's set forth in 16-3-10. And murder is defined as the
10 killing of any person with malice aforethought either
11 expressed or implied. I repeat, murder is the killing of
12 any person with malice aforethought either expressed or
13 implied.

14 So in order for you to find the Defendant guilty of
15 the crime of murder, it would be necessary that the
16 evidence in this case has established to your satisfaction
17 beyond a reasonable doubt that the Defendant, Holmes
18 Andrew Simpson-Davis, did commit some act or acts which
19 proximately caused the death of the decedent, Robert Lee
20 Hull. And that that killing was done with malice
21 aforethought. Malice aforethought is an essential element
22 of the crime of murder.

23 So what is malice aforethought? Well, malice, as an
24 essential element of the crime of murder, is a state of
25 mind connoting an ill will and having the intent to do

1 harm to some other. Intent means the state of a person's
2 mind which directs his actions towards a specific object
3 or goal. Intent would include those consequences which
4 represent the very purpose for which an act is done, as
5 well as those consequences which are known to be
6 substantially certain to result whether, actually,
7 intended or not. /

8 Now, malice is a technical term importing wickedness
9 and excluding just cause or legal excuse. It is something
10 which springs from depravity from a heart devoid of social
11 duty and fatally bent on mischief. Malice may be likewise
12 defined as a state of mind which indicates a formed
13 purpose and design to do a wrongful act under
14 circumstances that exclude any legal right to do it..
15 Malice may, also, be described as a state of mind
16 indicating an extreme disregard for or an extreme
17 indifference to human life.

18 And the words expressed and implied malice do not
19 mean different kinds of malice, but merely the manner in
20 which malice may be shown to have existed. That is to say
21 either by direct evidence or by circumstantial evidence
22 implying or inferring the existence of malice.

23 Now, malice may be expressed as where there is an
24 expressed threat to kill, or there is a lying in wait, or
25 where the circumstances show directly that an intent to

1 kill was in the mind of the killer at the time that the
2 killing took place.

3 Malice may be inferred, though no expressed intent to
4 kill is proven by direct evidence, where the facts and the
5 circumstances which have been proven by the evidence in a
6 case satisfy you beyond a reasonable doubt that malice was
7 present in the mind of the killer at the time any killing
8 took place. The existence of malice may be inferred from
9 any acts, declarations, and conduct of the killer, as well
10 as from any other circumstances shown to have existed at
11 the time of the event from which you might reasonably
12 infer the existence of malice. As often, the state of a
13 person's mind can only be proven by circumstantial
14 evidence.

15 Now, malice as an essential element of the crime of
16 murder -- and I want you to understand -- and this might
17 be a little bit confusing, but just -- you'll just have to
18 accept my instruction as the law. Malice as it relates to
19 the crime of attempted murder is a little different than
20 it is as it relates to the crime of murder. So, right
21 now, I'm instructing you on malice as it relates to the
22 crime of murder.

23 Malice as an essential element of the crime of murder
24 does not necessarily require proof of an ill will or a
25 hatred towards the particular individual who was killed,

1 nor does it necessarily require proof of an actual or a
2 specific intent to take human life. But, rather, the term
3 malice refers to a state of mind accompanying conduct
4 signifying a general malignant recklessness and an extreme
5 indifference -- an extreme disregard for or an extreme
6 indifference to human life.

7 And even if the facts proven are sufficient to raise
8 an inference of malice, such an inference would simply be
9 an evidentiary fact to be taken into consideration by you
10 12 jurors, along with all of the other evidence in the
11 case. And you shall give it such weight to those
12 inferences, if any, that you determine they should
13 receive.

14 The State is required to prove malice just as it must
15 prove any other essential element of the crime charged.
16 And it is for you 12 jurors to determine whether or not
17 the evidence in this case establishes malice beyond a
18 reasonable doubt.

19 It's, also, essential that there exists not only
20 malice, but that the malice be aforethought. The law does
21 not require that malice must exist for any appreciable
22 length of time before the commission of an act proximately
23 causing a fatal result. In fact, it may be conceived at
24 the very moment that the fatal act is committed.

25 It is sufficient in the law so long as the State does

1 prove beyond a reasonable doubt both the existence of
2 malice, and the commission of an act or acts by the
3 Defendant which proximately caused the fatal result and
4 the death of Robert Lee Hull. You must determine whether
5 or not malice aforethought exists based upon your
6 consideration of all of the evidence received during the
7 trial, and any reasonable inferences that might be drawn
8 from that evidence.

9 Now, while the State must prove beyond a reasonable
10 doubt that a killing did occur and it was accompanied by
11 the element of malice aforethought, in order to establish
12 the crime of murder, it is not necessary that the State
13 prove any motive for the killing. Motive is not an
14 essential element of the crime of murder which has to be
15 proven, although there may be some evidence relating to
16 that fact introduced during the trial of the case.

17 I'm now going to instruct you on the law as it
18 relates to the crime of attempted murder. And the law as
19 it relates to the crime of attempted murder will apply to
20 two separate indictments. Each of those indictments are
21 the ones alleging attempted murder, one being as it
22 relates to James Kilgore and the other as it relates to
23 Bruce Brewton. But the law is the same as it relates to
24 each of those separate indictments so far as the attempted
25 murder charge is concerned.

1 Attempted murder is, also, a statutory offense. And
2 that's set forth in Section 16-3-29 of the Code of Laws of
3 South Carolina. And that statute provides, A person who
4 with intent to kill attempts to kill another person with
5 malice aforethought, either expressed or implied, commits
6 the offense of attempted murder. Again, a person who with
7 intent to kill attempts to kill another person with malice
8 aforethought, either expressed or implied, commits the
9 offense of attempted murder.

10 In order for you to find the Defendant guilty of the
11 crime of attempted murder, it would be necessary that the
12 evidence in this case has established to your satisfaction
13 beyond a reasonable doubt that the Defendant, Holmes
14 Andrew Simpson-Davis, did with malice aforethought and a
15 specific intent to kill commit some overt act or acts in
16 an attempt to kill Bruce Brewton and James Kilgore.

17 An attempt is the commission of an overt act or acts
18 done in furtherance of the intent to do a specific thing
19 which tends towards the accomplishment of the intended
20 goal, but which falls short of completion. An attempt to
21 commit a crime means making an effort towards or doing an
22 act or acts which directly move toward the completion of
23 the commission of the crime intended. And, in this case,
24 that is alleged to be the crime of murder.

25 Malice, which is an essential element of the crime of

1 attempted murder, is, also, a technical term importing
2 wickedness and excluding just cause or legal excuse. It
3 is something that springs from depravity from a heart
4 devoid of social duty and fatally bent on mischief. And
5 it does refer to a state of mind indicating an extreme
6 disregard for or an extreme indifference to human life.

7 Now, as in the case of murder, the law does not
8 require that malice must exist for any appreciable length
9 of time before the commission of an act or acts
10 constituting the offense of attempted murder. Indeed,
11 just like as in murder, it may be conceived at the very
12 moment that the act is committed. It is sufficient in the
13 law so long as the State does prove beyond a reasonable
14 doubt malice accompanying acts constituting the intent to
15 commit murder.

16 Now, as I indicated earlier, while my next stage may
17 seem confusing, it is the law in this state that while a
18 specific intent to kill is not an essential element of the
19 crime of murder, a specific intent to kill is an essential
20 element of the crime of attempted murder. A specific
21 intent to kill means that the Defendant conscientiously
22 intended to the commission of the acts that constitute the
23 intent to commit murder. The element of intent to kill
24 may be inferred from acts, declarations, and conduct of
25 the Defendant, as well as from any other circumstances

1 established by the evidence in this case from which you
2 might reasonably infer such an intent.

3 As I've stated often, a person's intent may only be
4 established by circumstances or circumstantial evidence.
5 And, therefore, in order to establish the crime of
6 attempted murder, it is necessary that the evidence in
7 this case establishes that the Defendant did with malice
8 aforethought and a specific intent to kill commit some
9 overt act or acts in the attempt to kill in one case Bruce
10 Brewton, and in the other case James Kilgore.

11 Now, in the event that you were to find the State has
12 failed to prove one or more of the essential elements
13 necessary to establishing the crime of attempted murder,
14 then you would be permitted to consider as to the
15 indictments charging attempted murder the lesser included
16 offenses of assault and battery of a high and aggravated
17 nature.

18 Assault and battery of a high and aggravated nature
19 is, also, a statutory offense as set forth in Section
20 16-3-600, Subsection B(1) of the Code of Laws of South
21 Carolina. And that statute provides that a person is
22 guilty of the crime of assault and battery of a high and
23 aggravated nature if a person unlawfully injures another
24 person, and great bodily injury to another person results,
25 or the injurious act is accomplished by means likely to

1 produce death or great bodily injury.

2 The term great bodily injury is defined in the law as
3 bodily injury which causes a substantial risk of death, or
4 which causes serious permanent disfigurement, or
5 protracted loss, or impairment of the function of a bodily
6 member or organ. And, therefore, again as I say, assault
7 and battery of a high and aggravated nature is committed
8 when a person injures another person and great bodily
9 injury to that other person results, or the injurious act
10 is accomplished by means likely to produce death or great
11 bodily injury.

12 Now, not only must the State prove beyond a
13 reasonable doubt each of the essential elements of any
14 crime charged against the Defendant before he may be found
15 guilty of that particular crime, but the State must, also,
16 prove beyond a reasonable doubt that it was the Defendant
17 who committed the crime and not somebody else.

18 In this case, the State must not only prove that the
19 crimes of murder and attempted murder have been committed
20 by someone, but they must, also, prove that it was this
21 Defendant who has committed that crime and not someone
22 else. In that regard, however, you are instructed that
23 one who is charged with the commission of a crime may be
24 convicted of that crime as a principle offender or as an
25 accomplice.

1 An accomplice is one who knowingly, and voluntarily,
2 and with a common intent with the principle offender
3 unites with that principle offender in the commission of a
4 crime. An accomplice is often referred to an evader -- as
5 an aider or an abetter.

6 In this case, the State alleges that the Defendant is
7 guilty of the crimes of attempted murder either as a
8 principle or as an accomplice. And the law provides that
9 where two or more people act together with a common intent
10 and purpose and they combine, conspire, plan, or,
11 otherwise, agree to the commission of a particular crime,
12 each person who is present to aid, abet, assist, or,
13 otherwise, participate in the commission of that crime is
14 equally guilty.

15 The act of one is deemed to be the act of all. The
16 hand of one is deemed to be the hand of all. Any person
17 who joins with another to accomplish an illegal purpose is
18 held to be criminally responsible for everything done by
19 any other person which occurs as a natural and probable
20 consequence of the acts done pursuant to and in
21 furtherance of that common plan and purpose.

22 In order to be guilty as an accomplice in the
23 commission of a crime, one must be present at the scene of
24 the crime with the intention of aiding, abetting,
25 assisting, and participating in the commission of that

1 crime, and that that crime be completed. The mere
2 presence of the Defendant at the scene of a crime or in
3 close proximity to where a crime is committed, even with
4 knowledge that another is intending to commit a crime, is
5 not sufficient standing alone to prove the Defendant
6 guilty of the crime as an accomplice.

7 In order for the Defendant to be found guilty of a
8 crime, under the legal theory of aiding and abetting or
9 accomplice liability, it must be proven beyond a
10 reasonable doubt that the Defendant was at the scene of
11 the crime and did aid, abet, assist, or participate in the
12 commission of that crime.

13 And the remaining offense that I'll instruct you as
14 to is the charge of possession of a firearm during the
15 commission of a violent crime. And that charge is
16 contained in all three indictments, so the law applies to
17 all three.

18 Section 16-23-490 of the Code of Laws of South
19 Carolina provides that it shall be unlawful to possess a
20 firearm or to visibly display what appears to be a firearm
21 during the commission of a violent crime. And Section
22 16-1-60 of the Code of Laws of South Carolina provides
23 that the crimes of murder, attempted murder, and assault
24 and battery of a high and aggravated nature are all
25 classified as violent crimes under the law.

1 And, therefore, in order to be found guilty of a
2 violation of this particular section, it would be
3 necessary that the evidence in this case establishes to
4 your satisfaction beyond a reasonable doubt that the
5 Defendant did commit the crime of murder, and/or attempted
6 murder, and/or assault and battery of a high and
7 aggravated nature. And that during the commission of that
8 particular crime, he did possess a firearm or did visibly
9 display what appeared to be a firearm, and that that
10 firearm was employed in the commission of that particular
11 crime.

12 I instruct you further and I emphasize to you that
13 the fact that a Defendant does not testify during the
14 course of a criminal trial is not a fact or circumstance
15 which may be considered by the jury in any way during your
16 deliberations, or in your determination as to whether or
17 not his guilt as to a crime has been proven beyond a
18 reasonable doubt.

19 As I told you, the burden is on the State because
20 they made the charge to prove the Defendant guilty beyond
21 a reasonable doubt. The burden is never upon a Defendant,
22 or a person accused of a crime to prove that they are not
23 guilty or to prove that they are innocent, because in some
24 cases that might not be possible.

25 And, therefore, you are not to draw any inference nor

1 any conclusion from the fact that a Defendant does not
2 testify during a trial, nor may that fact be considered in
3 any way by the jury in your deliberations, or in your
4 determination as to the verdict, nor may that fact even be
5 discussed by you while you're engaged in your
6 deliberations. And you may not allow such a fact to weigh
7 in the slightest degree against a Defendant.

8 Now, ladies and gentlemen, I am not in any way
9 concerned with what your decisions are. But you are
10 instructed, as I've stated before, that your verdicts must
11 be unanimous. All of you must be in agreement before any
12 verdict may be rendered as to a particular indictment.

13 Again, as I've stated, there are three separate
14 indictments. There are six separate and distinct
15 offenses. You are called upon to render six separate and
16 distinct verdicts as to those charges. And those verdicts
17 may be the same, they may be different. That, of course,
18 depends upon your determination of the facts as it relates
19 to that particular charge, and then your application of
20 the law to those facts as you determine them to be.

21 Mr. Foreman, you're going to have these indictments
22 in the jury room with you, along with the other evidence.
23 As I believe I told you at the beginning, the indictments
24 are not evidence of anything. They don't prove anything.
25 They don't establish anything.

1 They're the means by which any person accused of a
2 crime is brought into this Court to stand trial on that
3 charge. And, of course, the indictment serves to put a
4 person on notice as to what crime the State claims they
5 have committed. But the indictments are going to be in
6 the jury room. But they're only there to serve as the
7 verdict forms.

8 Because it is on the back of each indictment,
9 Mr. Foreman, that you're going to be asked to indicate the
10 jury's unanimous decision as it relates to the charges
11 contained in those indictments. Once you've indicated
12 that decision in the space provided, you'll sign your name
13 as the Foreperson. You're the only juror that needs to
14 sign the verdict form.

15 Now, with respect to the indictment charging murder
16 and possession of a firearm during the commission of a
17 violent crime, that's two separate counts. I'm going to
18 write on here count one, count two. Count one being the
19 murder charge. Count two being the possession of a
20 firearm during the commission of that crime. And as to
21 each of those counts, you have two potential verdict
22 forms. And those two potential verdict forms are guilty
23 and not guilty.

24 Now, understand, of course, that if you find the
25 Defendant not guilty of count one, then he must be found

1 not guilty of count two. Because in order to be found
2 guilty of possession of a firearm during the commission of
3 a violent crime, the Defendant must be found guilty of the
4 violent crime that supports that possession charge.

5 As to the two indictments charging attempted murder
6 and possession of a firearm during the commission of a
7 violent crime, you're going to have three potential
8 verdict forms as it relates to the attempted murder
9 charge, count one. Those three potential verdict forms
10 are guilty, which means guilty of attempted murder. The
11 second potential verdict form is guilty of the lesser
12 included offense, assault and battery of a high and
13 aggravated nature. If the jury finds that -- makes that
14 finding, then you'll have to write that out. The verdict
15 form would be guilty of assault and battery of a high and
16 aggravated nature. And then the third potential verdict
17 form is not guilty.

18 And then as to possession of a firearm during the
19 commission of a violent crime, if the -- in order for the
20 Defendant to be found guilty of possession of a firearm
21 during the commission of a violent crime on the two
22 attempted murder indictments, the Defendant must be found
23 guilty of either attempted murder or of assault and
24 battery of a high and aggravated nature. But a guilty
25 verdict on either of those charges is a violent crime and

1 would support a verdict of guilty as to count two of the
2 indictment if you find the Defendant did possess a firearm
3 during the commission of that violent crime.

4 Now, during deliberations, there may come a time
5 where you have some question about the facts or the
6 evidence in the case. You may even ask about having some
7 additional evidence that you think might exist that might
8 help you in making a decision.

9 Please understand that I'm never permitted to answer
10 questions that relate to issues of fact. Also, no
11 additional evidence is allowed to be introduced now that
12 the evidence is closed and you're getting ready to go back
13 to begin with your deliberations.

14 So if the evidence -- and the lawyers are going to --
15 the lawyers, and the court reporter, and I will verify all
16 of the exhibits which have been introduced during the
17 trial. And so all of those exhibits should be in the jury
18 room with you during your deliberations.

19 So if you don't have that piece of evidence or you're
20 looking for something else, don't ask me about it because
21 you can't have it. Even if it exists, you can't have it
22 because no additional evidence can be received. If you
23 feel certain that something was introduced and you think
24 we've neglected to send it back, you go ahead and ask me
25 about that. And we'll make that determination.

1 If you ever have a question about a witnesses
2 testimony and you'd like to hear -- rehear that testimony,
3 we can always bring you back into the courtroom to have a
4 witnesses testimony replayed in whole or in part if that's
5 all that's necessary. I don't have transcripts of the
6 testimony, so I can't send a transcript back. But I can
7 bring you back into the courtroom to have a witnesses
8 testimony replayed in whole or in part.

9 If you have a question about the law that you are to
10 apply, I am permitted to always answer those questions.
11 And so should you need for me to give you a complete
12 re-instruction, I'll be happy to do that. If you only
13 need some particular portion explained or clarified, I'm
14 happy to provide you with that additional explanation or
15 clarification.

16 So if you have a question about the facts, I can't
17 respond to it. If the testimony being replayed will help
18 you, we can do that. If you want additional evidence, you
19 can't have it, it can't be introduced. If you want me to
20 provide you an additional instruction explanation or
21 clarification, I'm happy to do that, so let me know and
22 I'll provide that.

23 If -- do we have any smokers on the jury?

24 (WHEREUPON, there was no response.)

25 THE COURT: You can smoke. But you can't smoke in

1 the jury room. If you want to smoke, knock on the door,
2 tell the bailiff you want to smoke, and they'll take you
3 outside to accomplish that purpose. But understand that
4 if at any time any juror is absent for any authorized
5 purpose, the deliberations have to stop. And those
6 deliberations may only resume when all 12 jurors are
7 present so that all can participate.

8 You've, also, ordered your lunches. And they should
9 be here shortly, I'm guessing. Once they arrive, they'll
10 be provided to you. If you want to stop and eat, that's
11 up to you. If you want to deliberate while you eat,
12 that's, also, up to you. I'll leave that to your
13 discretion. I'm not going to give you any sort of
14 suggestion or recommendation about that.

15 So, Mr. Foreman, once you and your fellow jurors have
16 reached a unanimous decision as it relates to a particular
17 charge, you simply indicate that decision on the back of
18 the indictment in the appropriate place, sign your name as
19 the Foreperson. And once you have reached your decisions,
20 if you'll knock on the jury room door, notify the bailiff
21 that you have reached your decisions, and we'll bring you
22 back to receive your verdicts.

23 Now, when you notify the bailiff that you've reached
24 your decisions, you will hold on to the verdict forms.
25 You can give the bailiff all the exhibits and the

1 evidence, but you'll hold on to the verdict forms. And
2 I'll receive those from you after the jury has returned to
3 the courtroom.

4 There are some DVD's that have been played during the
5 trial, and you will have those in the jury room. And
6 you'll, also, have a computer on which you can play those
7 audios and videos. If for some reason you can't get it to
8 work or you can't figure it out -- and I think you
9 collectively should be able to do that. But if you can't,
10 I've got a grandchild that can do that for you. That's
11 who I get to do it for me. So if you do have a problem,
12 let us know of that fact and we'll send somebody back
13 there to assist you with that.

14 Now, I'm going to ask the 12 primary jurors to go
15 back. I'm going to ask the alternate juror to stay with
16 me right now.

17 As the 12 go back, don't begin discussing the case
18 because I've got to talk to the lawyers. If for any
19 reason I have neglected to provide you with some
20 information that I should have, then I'll bring you
21 back -- and I'm sure they'll remind me -- I'll bring you
22 back to provide you with some additional instruction.

23 If I do not need to bring you back for any reason,
24 then you'll be told by the bailiff that you can begin your
25 deliberations. And in that event, all of the exhibits

1 will be provided to you, the computer with the DVD's.

2 And to you, Mr. Foreman, you'll, also, be provided
3 with the indictments, which will serve as the verdict
4 forms.

5 So the 12 primary jurors will retire to your jury
6 room. But await my instruction as to when to begin
7 deliberations.

8 (WHEREUPON, the jury was excused from open court at
9 approximately 12:48 p.m.)

10 THE COURT: Ms. Hollis, as you know, you can't
11 participate in deliberations so long as the 12 original
12 jurors are able to do that. So that's going to conclude
13 your service for the trial right now.

14 But I don't know what might happen during
15 deliberations. And some juror may be unable to continue.
16 And, therefore, we're going to ask you to remain with us.
17 You will be taken to a separate room for your
18 accommodations while the jury is deliberating.

19 If at any time the jury comes back because they have
20 a question or need to address something with the Court,
21 you'll be brought back with them. But you're not going to
22 be in the same room as them. And when the jury reaches a
23 decision, we'll, also, bring you back when we receive
24 those verdicts.

25 But while the jury is deliberating and while you're

1 here with us, you're still not permitted to talk about the
2 case with anybody in any fashion whatsoever. Because it
3 might be that you'll be called upon to assist in those
4 deliberations.

5 And you will be provided your lunch as soon as it
6 arrives. Okay.

7 So thank you for your participation.

8 If you'll go with the bailiff, we'll be in touch with
9 you later on.

10 (WHEREUPON, Juror #82, Sandra Hollis, exited the
11 courtroom.)

12 THE COURT: Are there any exceptions taken to the
13 instruction, or requests for additions to the instruction
14 by the State?

15 MR. HUNTER: None from the State, Your Honor.

16 THE COURT: By the Defendant?

17 MR. THOMPSON: No, Your Honor.

18 THE COURT: All right. Let me ask y'all to verify
19 the exhibits, please.

20 (Pause.)

21 THE COURT: Are all of the exhibits accounted for?

22 MR. HUNTER: Yes from the State, Your Honor.

23 MR. THOMPSON: Yes, Your Honor.

24 THE COURT: All right. And do either of you have any
25 objection to my instructing the bailiff to tell the

1 Foreperson that if at any time he or a juror has a
2 question or some matter they need to address with me that
3 he is to write it on a piece of paper and give it to the
4 bailiff in order for them to provide it to me?

5 MR. HUNTER: That sounds good to me, Your Honor.

6 MR. THOMPSON: Me, too, Your Honor.

7 THE COURT: If they have a question or issue, tell
8 them to write it on a piece of paper and give it to me.

9 THE BAILIFF: Yes, Your Honor.

10 THE COURT: All right. Take the exhibits back.

11 And you've got the computer?

12 MS. MABBS: Yes, Your Honor.

13 THE COURT: Tell the jury to begin deliberations.
14 And notify us when they've concluded.

15 We will be at ease while the jury is deliberating.

16 (WHEREUPON, the proceedings were recessed at
17 approximately 12:53 p.m.)

18 THE COURT: I am told that the jury has reached a
19 decision.

20 Are we ready to receive it?

21 MR. HUNTER: The State is ready, Your Honor.

22 MR. THOMPSON: Yes, Your Honor.

23 THE COURT: Bring the jury in.

24 (WHEREUPON, the jury came into open court at
25 approximately 3:30 p.m.)

1 THE COURT: Mr. Foreman, have you and your fellow
2 jurors reached a unanimous decision as to each of the
3 separate indictments?

4 JUROR #36, RANDALL CHAMBERS: We have, Your Honor.

5 THE COURT: And have you reflected those decisions on
6 the back of the indictments as requested?

7 JUROR #36, RANDALL CHAMBERS: Yes, sir.

8 THE COURT: Did you sign your name as the Foreperson?

9 JUROR #36, RANDALL CHAMBERS: I did.

10 THE COURT: Do you have those?

11 JUROR #36, RANDALL CHAMBERS: I do.

12 THE COURT: Hand those up, please, by way of the
13 bailiff.

14 Thank you.

15 THE BAILIFF: Yes, sir.

16 THE COURT: All right. Now, here's one thing,
17 Mr. Foreman, that I told you I was going to do and I
18 forgot to do it. I told you that on the back of the
19 indictments in the space for the verdict, I was going to
20 put count one and count two. And I failed to do that.
21 But each of these indictments has two counts, count one
22 and count two.

23 So I'm going to ask you to go back with your fellow
24 jurors and you write in the verdict form -- look at the
25 counts in the indictments. Count one, put your decision.

1 Count two, put your decision. Okay.

2 So each count will have two decisions. Okay.

3 JUROR #36, RANDALL CHAMBERS: Yes, sir.

4 THE COURT: Excuse me. Each indictment will have two
5 decisions. Each count will have a decision.

6 Ms. Hollis, they're just going to hold you in the
7 hallway out here.

8 JUROR #82, SANDRA HOLLIS: Okay.

9 (WHEREUPON, the jury was excused from open court at
10 approximately 3:32 p.m.)

11 (Pause.)

12 THE BAILIFF: They're ready.

13 THE COURT: Okay. Bring them in.

14 (WHEREUPON, the jury came into open court at
15 approximately 3:36 p.m.)

16 THE COURT: All right. Mr. Foreman, you've completed
17 the verdict forms?

18 JUROR #36, RANDALL CHAMBERS: Yes, sir.

19 THE COURT: Hand those up by way of the bailiff,
20 please, sir.

21 You may publish the verdict.

22 VERDICT

23 THE CLERK: Indictment number 2016-GS-42-1734, the
24 State of South Carolina v. Holmes Andrew Simpson-Davis,
25 indicted for attempted murder and possession of a crime

1 during -- possession of a weapon during a violent crime.
2 Count one, attempted murder, guilty. And possession of a
3 weapon during a violent crime, count two, guilty.

4 2016-GS-42-1735, the State of South Carolina v.
5 Holmes Andrew Simpson-Davis, indicted for murder and
6 possession of a firearm during the commission of a violent
7 crime. Count one, murder, guilty. Count two, possession
8 of a firearm during the commission of a violent crime,
9 guilty, signed by the Foreperson on September 8th, 2017.

10 Indictment number 2016-GS-42-1736, the State of South
11 Carolina v. Holmes Andrew Simpson-Davis, indictment for
12 attempted murder and possession of a weapon during a
13 violent crime. Count one attempted murder, guilty. And
14 possession of a weapon during a violent crime, count two,
15 guilty, signed by the Foreperson on September 8th, 2017.

16 Ladies and gentlemen of the jury, is this your
17 verdict and still your verdict? If so, please, raise your
18 right hand.

19 (WHEREUPON, all of the jurors raised their right
20 hand.)

21 THE CLERK: So say you all.

22 THE COURT: Does the Defendant wish to have the jury
23 polled?

24 MR. THOMPSON: It's not necessary, Your Honor.

25 Do you want them polled?

1 DEFENDANT SIMPSON-DAVIS: (Defendant Simpson-Davis
2 shook his head.)

3 MR. THOMPSON: It's not necessary.

4 THE COURT: All right. Any other matters that need
5 to be addressed with the jury present?

6 MR. THOMPSON: Nothing from the Defendant, Your
7 Honor.

8 MR. HUNTER: Nothing from the State, Your Honor.

9 THE COURT: All right. Thank you, ladies and
10 gentlemen, for your participation in the trial of this
11 case, as well as for your participation as jurors this
12 week.

13 I do sincerely hope that your service has not posed
14 too much of a hardship or inconvenience on you. And I do
15 sincerely hope that it has been an educational and
16 beneficial experience for you.

17 You will be receiving pay vouchers for your service
18 this week. Those pay vouchers will be mailed to you at
19 the address that appears on your juror summons.

20 So if that address is not your correct address and
21 you have not already provided that address -- different
22 address to the Clerk, be sure you do that before you
23 leave.

24 Okay. Thank you again for your participation.

25 If you'll go with the bailiff one more time, they'll

1 scan your identification cards, and you may be excused
2 with our thanks.

3 And if anyone needs an employer statement, they'll
4 provide you with that, also.

5 (WHEREUPON, the jury was excused from open court at
6 approximately 3:40 p.m.)

7 THE COURT: All right. Any matters to be addressed
8 prior to the imposition of sentence?

9 MR. THOMPSON: None, Your Honor.

10 MR. HUNTER: I handed the sentencing sheets to the
11 Defense, Your Honor.

12 THE COURT: Okay.

13 (Pause.)

14 MR. HUNTER: Your Honor, it appears the Defendant has
15 refused to sign the sentencing sheets.

16 THE COURT: Mr. Davis, you don't want to sign the
17 sentencing sheets?

18 DEFENDANT SIMPSON-DAVIS: No, sir.

19 THE COURT: Are you refusing to sign them?

20 DEFENDANT SIMPSON-DAVIS: Yes, sir.

21 THE COURT: Why?

22 DEFENDANT SIMPSON-DAVIS: Because I don't feel
23 that -- that all that was right.

24 THE COURT: Well, this doesn't say you agree with it.
25 It just says you've been notified of it.

1 You don't want to sign it?

2 DEFENDANT SIMPSON-DAVIS: (Defendant Simpson-Davis
3 shook his head.)

4 THE COURT: Are you refusing to sign it?

5 DEFENDANT SIMPSON-DAVIS: No.

6 THE COURT: You're not refusing to sign it?

7 (WHEREUPON, there was no response.)

8 MR. THOMPSON: Do you want to sign them?

9 DEFENDANT SIMPSON-DAVIS: (Defendant Simpson-Davis
10 nodded.)

11 MR. THOMPSON: May I approach?

12 THE COURT: Sure.

13 Signing those sentencing sheets does not preclude you
14 from filing an appeal.

15 (Pause.)

16 THE COURT: All right. Anything further on behalf of
17 the State?

18 MR. HUNTER: Yes, Your Honor. I'd like to go over
19 his prior record.

20 THE COURT: Okay.

21 MR. HUNTER: It's a 2009 burglary second non-violent
22 times three, grand larceny times two, petit larceny times
23 one. At that time, he received a sentence of five years,
24 suspended to three years with four years of probation.
25 And then two years later, in 2011, his probation was

1 revoked. He pled guilty to simple possession of
2 marijuana. His probation was revoked and terminated at
3 that time by Judge Couch.

4 In 2013, he then, again, pled to possession with
5 intent to distribute crack cocaine and possession of a
6 stolen pistol. That stolen pistol was, actually, a gun
7 that belonged to the Spartanburg County Sheriff's Office,
8 Your Honor. He was placed on a YOA not to exceed five
9 years. And he was on YOA parole when this incident
10 happened.

11 I've spoken to the family of Mr. Hull. At this time,
12 they do not wish to speak. However, they did ask that I
13 request based on his callous disregard for human life and
14 his prior record that he be sentenced to the maximum
15 sentence allowed by law.

16 Nothing further from the State.

17 THE COURT: All right. Mr. Thompson, anything from
18 you and/or Mr. Simpson-Davis?

19 MR. THOMPSON: Your Honor, I just request the Court
20 consider my client's age. He's 27. He does have two
21 children.

22 And I think a lot unfolded through the week to show
23 that the environment on Howard Street was not a good one.
24 And I just ask the Court to be as lenient as possible on
25 Mr. Davis.

1 And I've had the opportunity to meet his family
2 through this process. And he has a great family. They're
3 good people. And I feel like Mr. Davis has a really good
4 heart himself. He's just -- as you can see through his
5 prior record, he's made some bad choices through the
6 years. I just ask the Court for leniency here.

7 THE COURT: All right. Mr. Simpson-Davis, anything
8 you want to add to what's been said?

9 DEFENDANT SIMPSON-DAVIS: No, sir.

10 SENTENCING

11 THE COURT: All right. On indictment 2016-1735,
12 that's the indictment for murder and possession of a
13 firearm during the commission of a violent crime. As to
14 count one, murder, the jury having found you guilty, the
15 sentence of the Court is you be confined to the South
16 Carolina Department of Corrections for the period of your
17 natural life. County two of the indictment, no sentence
18 imposed pursuant to 16-23-490, Subsection A.

19 Indictment 2016-1734, attempted murder and possession
20 of a firearm during the commission of a violent crime, the
21 jury having found you guilty of each of those counts, the
22 sentence of the Court is as to count one, you are to be
23 confined to the South Carolina Department of Corrections
24 for a period of 30 years. That sentence is consecutive to
25 any other. Count two, possession of a firearm, wherein

1 you have been found guilty, five years consecutive to any
2 other.

3 The remaining indictment 2016-1736, attempted murder
4 and possession of a firearm during the commission of a
5 violent crime, wherein you have been found guilty by the
6 jury of each of those offenses, as to count one, the
7 sentence of the Court is you be confined to the South
8 Carolina Department of Corrections for a period of
9 30 years. As to count two, possession of a firearm, five
10 years.

11 Now, Mr. Simpson-Davis, you have a right to appeal
12 the verdict of the jury and the sentence of the Court.
13 You must file your notice of intent to appeal those
14 decisions within 10 days of today's date. Mr. Thompson
15 will assist you with that.

16 Do you understand?

17 DEFENDANT SIMPSON-DAVIS: Yes, sir.

18 THE COURT: Okay.

19 (WHEREUPON, Court's Exhibit No. 3 was marked and
20 admitted into evidence.)

21 *****END OF TRANSCRIPT OF RECORD*****

22

23

24

25

STATE'S
EXHIBIT

Call Log (508)

* These details are cross-referenced from this device's contacts

Incoming (132)

Uncategorized (132)

#	Parties	Timestamp	Duration	Country code	Network code	Network Name	Video call	Delete
1	18643479848 Stan	7/25/2015 3:08:09 PM(UTC+0)	00:00:41					Intact
2	18642078089 Wild	7/25/2015 2:46:12 PM(UTC+0)	00:00:26					Intact
3	18645404099 Babyma	7/25/2015 2:43:41 PM(UTC+0)	00:00:47					Intact
4	18646212564 Ty G	7/25/2015 2:27:11 PM(UTC+0)	00:01:03					Intact
5	18645404099 Babyma	7/25/2015 2:26:25 PM(UTC+0)	00:01:42					Intact
6	18644519421 Nick	7/25/2015 2:08:40 PM(UTC+0)	00:03:09					Intact
7	18645591371 Los	7/25/2015 2:08:09 PM(UTC+0)	00:00:27					Intact
8	18643769351 co	7/25/2015 1:50:58 PM(UTC+0)	00:01:58					Intact
9	18646212564 Ty G	7/25/2015 1:34:40 PM(UTC+0)	00:00:21					Intact
10	18642078089 Wild	7/25/2015 11:01:36 AM(UTC+0)	00:03:11					Intact
11	18645404099 Babyma	7/25/2015 9:34:22 AM(UTC+0)	00:03:08					Intact
12	18646219741 Gbo	7/25/2015 8:27:57 AM(UTC+0)	00:01:58					Intact
13	18649789051	7/25/2015 7:51:14 AM(UTC+0)	00:02:42					Intact
14	18643769351 co	7/25/2015 6:38:57 AM(UTC+0)	00:00:57					Intact
15	18643769351 co	7/25/2015 6:36:06 AM(UTC+0)	00:00:41					Intact
16	18643769351 co	7/25/2015 6:31:28 AM(UTC+0)	00:03:38					Intact

#	Parties	Timestamp	Duration	Country code	Network code	Network Name	Video call	Delete
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18	18646212564 Ty G	7/25/2015 6:02:39 AM(UTC+0)	00:00:29					Intact
19	18645591371 Los	7/25/2015 6:01:43 AM(UTC+0)	00:00:13					Intact
20	18644354726	7/25/2015 6:01:17 AM(UTC+0)	00:00:05					Intact
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22	18649789051	7/25/2015 4:01:50 AM(UTC+0)	00:00:44					Intact
23	18644519421 Nick	7/25/2015 3:29:33 AM(UTC+0)	00:01:17					Intact
24	18643769351 co	7/25/2015 1:59:20 AM(UTC+0)	00:00:24					Intact
25	18643578325	7/25/2015 1:51:09 AM(UTC+0)	00:00:05					Intact
26	18644019636 Gete	7/25/2015 1:19:33 AM(UTC+0)	00:00:29					Intact
27	18642790963	7/25/2015 12:26:28 AM(UTC+0)	00:00:35					Intact
28	18645404099 Babyma	7/24/2015 11:55:35 PM(UTC+0)	00:00:16					Intact
29	18645404099 Babyma	7/24/2015 9:04:21 PM(UTC+0)	00:01:32					Intact
30	18645404099 Babyma	7/24/2015 9:00:47 PM(UTC+0)	00:00:28					Intact
31	18647076025 Ma	7/24/2015 8:45:41 PM(UTC+0)	00:00:32					Intact
32	18644376703	7/24/2015 8:35:58 PM(UTC+0)	00:02:12					Intact
33	18643769351 co	7/24/2015 5:41:03 PM(UTC+0)	00:00:57					Intact
34	18643769351 co	7/24/2015 3:28:44 PM(UTC+0)	00:00:33					Intact
35	18645404099 Babyma	7/24/2015 3:06:00 PM(UTC+0)	00:01:18					Intact
36	18643479848 Stan	7/24/2015 2:45:13 PM(UTC+0)	00:00:26					Intact

#	Parties	Timestamp	Duration	Country code	Network code	Network Name	Video call	Delete
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23	18646216676 Kipp	7/17/2015 2:21:09 PM(UTC+0)	00:00:00					Intact
24	18643769351 co	7/17/2015 2:12:32 PM(UTC+0)	00:00:00					Intact
25	18643769351 co	7/17/2015 2:11:46 PM(UTC+0)	00:00:00					Intact
26	18643769351 co	7/17/2015 2:03:19 PM(UTC+0)	00:00:00					Intact
27	18645404099 Babyma	7/17/2015 6:29:26 AM(UTC+0)	00:00:00					Intact
28	18645404099 Babyma	7/17/2015 6:14:46 AM(UTC+0)	00:00:00					Intact
29	18645404099 Babyma	7/17/2015 6:13:59 AM(UTC+0)	00:00:00					Intact
30	18645404099 Babyma	7/16/2015 5:14:33 PM(UTC+0)	00:00:00					Intact
31	18039797884	7/16/2015 4:03:23 PM(UTC+0)	00:00:00					Intact
32	18645404099 Babyma	7/16/2015 6:47:02 AM(UTC+0)	00:00:00					Intact
33	18645404099 Babyma	7/16/2015 5:38:11 AM(UTC+0)	00:00:00					Intact
34	18645404099 Babyma	7/16/2015 4:03:29 AM(UTC+0)	00:00:00					Intact
35	18645404099 Babyma	7/16/2015 4:02:08 AM(UTC+0)	00:00:00					Intact
36	18647077706 Amp Ball	7/15/2015 6:54:50 PM(UTC+0)	00:00:00					Intact
37	18644519421 Nick	7/15/2015 2:41:38 PM(UTC+0)	00:00:00					Intact

Outgoing (314)

Uncategorized (314)

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STATE'S
EXHIBIT

#	Parties	Timestamp	Duration	Country code	Network code	Network Name	Video call	Delete
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3	18644356903	7/25/2015 2:38:23 PM(UTC+0)	00:00:30					Intact
4	18649789051	7/25/2015 2:31:49 PM(UTC+0)	00:05:03					Intact
5	8647076025 Ma	7/25/2015 2:25:07 PM(UTC+0)	00:01:20					Intact
6	8646212564 Ty G	7/25/2015 2:20:44 PM(UTC+0)	00:00:24					Intact
7	18646216676 Kipp	7/25/2015 2:19:10 PM(UTC+0)	00:00:55					Intact
8	18643769351 co	7/25/2015 1:49:24 PM(UTC+0)	00:00:00					Intact
9	8647076025 Ma	7/25/2015 1:46:58 PM(UTC+0)	00:01:37					Intact
10	8646212564 Ty G	7/25/2015 1:39:54 PM(UTC+0)	00:02:08					Intact
11	8645591371 Los	7/25/2015 7:42:32 AM(UTC+0)	00:00:15					Intact
12	18644356903	7/25/2015 7:14:01 AM(UTC+0)	00:00:14					Intact
13	18644356903	7/25/2015 7:11:00 AM(UTC+0)	00:00:21					Intact
14	18039797884	7/25/2015 7:08:05 AM(UTC+0)	00:00:03					Intact
15	18039797884	7/25/2015 7:07:12 AM(UTC+0)	00:00:04					Intact
16	18644356903	7/25/2015 7:01:43 AM(UTC+0)	00:01:14					Intact
17	8646212564 Ty G	7/25/2015 6:20:53 AM(UTC+0)	00:00:00					Intact
18	8645591371 Los	7/25/2015 6:20:27 AM(UTC+0)	00:00:10					Intact
19	18643769351 co	7/25/2015 6:19:52 AM(UTC+0)	00:00:00					Intact
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#	Parties	Timestamp	Duration	Country code	Network code	Network Name	Video call	Delete
22	18039797884	7/25/2015 5:45:58 AM(UTC+0)	00:00:04					Intact
23	18645533693 Hillow G	7/25/2015 5:12:51 AM(UTC+0)	00:00:08					Deleted
24	18645533693 Hillow G	7/25/2015 5:12:05 AM(UTC+0)	00:00:22					Deleted
25	8644019636 Gete	7/25/2015 5:11:29 AM(UTC+0)	00:00:00					Intact
26	18644376703	7/25/2015 4:27:18 AM(UTC+0)	00:00:13					Intact
27	18644376703	7/25/2015 4:06:30 AM(UTC+0)	00:00:28					Intact
28	8649789051	7/25/2015 4:00:44 AM(UTC+0)	00:00:04					Intact
29	8649789051	7/25/2015 3:59:32 AM(UTC+0)	00:00:08					Intact
30	18643578325	7/25/2015 1:52:03 AM(UTC+0)	00:00:00					Intact
31	8644019636 Gete	7/25/2015 1:23:45 AM(UTC+0)	00:00:08					Intact
32	18645404099 Babyma	7/25/2015 1:08:29 AM(UTC+0)	00:00:37					Intact
33	8646213071 Calico	7/25/2015 12:42:23 AM(UTC+0)	00:00:00					Intact
34	2790963	7/25/2015 12:25:56 AM(UTC+0)	00:00:00					Intact
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37	2790963	7/25/2015 12:18:47 AM(UTC+0)	00:00:32					Intact
38	2790363	7/25/2015 12:18:01 AM(UTC+0)	00:00:04					Intact
39	8644019636 Gete	7/25/2015 12:09:31 AM(UTC+0)	00:00:00					Intact
40	8643099931	7/25/2015 12:03:05 AM(UTC+0)	00:00:48					Intact
41	18645404099 Babyma	7/24/2015 11:51:16 PM(UTC+0)	00:00:47					Intact

2015071322
HOMICIDE
1066 HOWARD ST.

LEGEND:

ITEM 1: FC 9mm FIRED CARTRIDGE CASE
ITEM 2: FC 9mm FIRED CARTRIDGE CASE
ITEM 3: FC 9mm FIRED CARTRIDGE CASE
ITEM 4: FC 9mm FIRED CARTRIDGE CASE
ITEM 5: WINCHESTER 45 CAL. FIRED CARTRIDGE CASE
ITEM 6: WINCHESTER 45 CAL. FIRED CARTRIDGE CASE
ITEM 7: WINCHESTER 45 CAL. FIRED CARTRIDGE CASE
ITEM 8: R-P 9mm FIRED CARTRIDGE CASE
ITEM 9: R-P 9mm FIRED CARTRIDGE CASE
ITEM 10: WINCHESTER 45 CAL. FIRED CARTRIDGE CASE
ITEM 11: FC 9mm FIRED CARTRIDGE CASE
ITEM 12: R-P 9mm FIRED CARTRIDGE CASE
ITEM 13: WINCHESTER 45 CAL. FIRED CARTRIDGE CASE
ITEM 14: R-P 9mm FIRED CARTRIDGE CASE
ITEM 15: R-P 9mm FIRED CARTRIDGE CASE
ITEM 16: R-P 9mm FIRED CARTRIDGE CASE
ITEM 17: R-P 9mm FIRED CARTRIDGE CASE
ITEM 18: R-P 9mm FIRED CARTRIDGE CASE
ITEM 19: R-P 9mm FIRED CARTRIDGE CASE
ITEM 20: BLUE BALL CAP
ITEM 21: FC 9mm FIRED CARTRIDGE CASE
ITEM 22: FC 9mm FIRED CARTRIDGE CASE
ITEM 23: FIRED BULLET
ITEM 24: FIRED BULLET
ITEM 25: FIRED BULLET FRAGMENT
ITEM 26: FIRED BULLET
ITEM 27: FIRED BULLET
ITEM 28: WINCHESTER 45 CAL. FIRED CARTRIDGE CASE
ITEM 29: BLOOD SWABS FROM DRIVEWAY
ITEM 30: BLOOD SWABS FROM STEPS

2015071322
HOMICIDE
1066 HOWARD ST.
MEASUREMENTS

POINT A to B: 15'04"
POINT C to D: 21'11"

<u>MEASUREMENTS:</u>	<u>A</u>	<u>B</u>
HEAD:	70'02"	60'10"
RIGHT HAND:	73'02"	63'08"
LEFT HAND:	68'05"	58'08"
RIGHT FOOT:	70'	59'07"
LEFT FOOT:	70'	59'07"
ITEM 1:	77'08"	83'04"
ITEM 2:	69'11"	72'
ITEM 3:	72'01"	74'02"
ITEM 4:	59'08"	58'02"
ITEM 5:	56'09"	54'11"
ITEM 6:	53'07"	50'06"
ITEM 7:	60'02"	56'06"
ITEM 8:	61'08"	58'
ITEM 9:	73'08"	70'06"
ITEM 10:	63'07"	59'03"
ITEM 11:	75'05"	71'09"
ITEM 12:	68'02"	63'08"
ITEM 13:	60'07"	59'10"
ITEM 14:	76'09"	71'01"
ITEM 15:	77'08"	72'02"
ITEM 16:	70'11"	64'11"
ITEM 17:	85'10"	79'09"
ITEM 18:	82'08"	75'05"
ITEM 19:	93'08"	83'06"
ITEM 20:	90'09"	78'01"
ITEM 21:	78'10"	78'04"

2015071322
HOMICIDE
1066 HOWARD ST.
MEASUREMENTS

MEASUREMENTS cont.:

	<u>A</u>	<u>B</u>
ITEM 22:	81'01"	81'07"
ITEM 28:	51'07"	55'07"
	<u>C</u>	<u>D</u>
ITEM 23:	31'08"	43'03"
ITEM 24:	22'06"	28'08"
ITEM 25:	32'03"	32'05"
ITEM 26:	11'11"	12'06"
ITEM 29:	23'02"	38'02"
ITEM 30:	15'	8'08"

CASE#	Page 95 73071322	VOLUNTARY STATEMENT		PAGE 1 of 1
STATEMENT OF:	Briana Woodruff	AGE:	22	DATE: 8.16.15
ADDRESS:	[REDACTED]			
NE #	(804) 316-6773	DOB:	[REDACTED]	SSN: [REDACTED]

I was at home Friday the 24th, I left home alone around 11, once I left from home I went to a friends house and started drinking after that somebody made a phone call once the phone call was made, Me & Holmes left in the car & went towards the liquor house, before I got to the liquor house, he got out of the car once he got out of the car I proceeded to the liquor house, I sat in the car for a while, once I got out of the car I came back to the car & sat there for a while somebody got in the car & I didn't know who it was and told them to get out of the car, once they got out of the car I left the liquor house & later on Holmes got back in the car & we went back to a friends house. Once I left my friends house I came back home, I returned home at 5:00 am (Holmes phone rung, later on he asked me to take him to the north, this was the phone call received prior to going to the liquor house) LEDS

I have read this statement consisting of 1 pages(s), and I swear that the statement that I have just given is the truth, the whole truth, and nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement.

This statement was completed at 3:00 P M. on the 6th day of August 20 15

WITNESS: [Signature]

Briana Woodruff
Signature of person giving voluntary statement

SWORN to before me this 6th

of August 20 15
[Signature] (Seal)
Notary Public of South Carolina

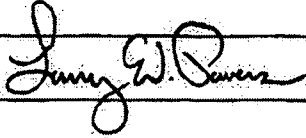
My Commission expires: 05-06-25

STATE'S
EXHIBIT

9/5/17 60

WITNESSES

Spartanburg County Sheriff's Office

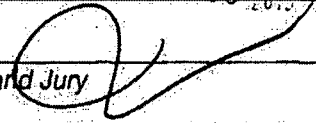
True Bill

ARREST WARRANT NUMBER

COUNT ONE: 2015A4210202365

COUNT TWO: DIRECT INDICTMENT

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date: 

VERDICT

COUNT #1 GUILTY

COUNT #2 GUILTY

RANDALL K. CUMMINGS

Foreperson of Petit Jury
Date: 9/8/2017

DOCKET NO.

16-GS-42-1734

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAR 28 2016

TERM

THE STATE
vs.

Holmes Andrew Simpson-Davis

Indictment for

ATTEMPTED MURDER AND
POSSESSION OF A WEAPON DURING A
VIOLENT CRIME

SC Code: 16-3-0029; 16-23-490

CDR Code: 3410; 549

Class FEL-A; FEL-F

FILED
2016 MAR 29 PM 1:12
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

MAR 25 2016

At a Court of General Sessions, convened on _____, the
Grand Jurors of Spartanburg County present upon their oath:

COUNT ONE: ATTEMPTED MURDER

That Holmes Andrew Simpson-Davis, did in Spartanburg County on or about July 25, 2015, with malice aforethought attempt to kill Bruce Brewton, by shooting the victim with a handgun, with the intent to kill the said victim, in violation of §16-03-0029, of *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

COUNT TWO: POSSESSION OF A WEAPON DURING A VIOLENT CRIME

That Holmes Andrew Simpson-Davis, did in Spartanburg County on or about July 25, 2015, possess or visibly display a handgun during the commission of a violent crime, to-wit: ATTEMPTED MURDER, in violation of Code §16-23-490, *CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

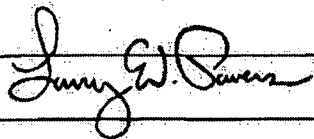
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



ASSISTANT SOLICITOR

WITNESSES

Spartanburg County Sheriff's Office

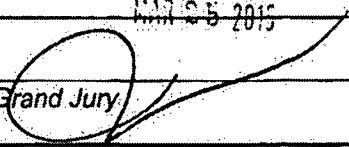
True Bill

ARREST WARRANT NUMBER

COUNT ONE: 2015A4210202363

COUNT TWO: DIRECT INDICTMENT

ACTION OF GRAND JURY

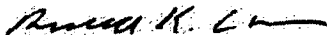
Foreperson of Grand Jury
Date: 

VERDICT

COUNT #1 GUILTY

COUNT 2 GUILTY

RANDALL K. CHAMBERS



Foreperson of Petit Jury

Date: 9/8/2017

DOCKET NO.

16-GS-42-1735

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAR 28 2016

TERM

THE STATE

vs.

Holmes Andrew Simpson-Davis

Indictment for
MURDER AND POSSESSION
OF FIREARM DURING COMMISSION
OF A VIOLENT CRIME

SC Code 16-03-0010, 0020; 16-23-490

CDR CODE: 0116: 0549

CLASS: FEL-EXM: FEL/F

FILED
2016 MAR 29 PM 1:13
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on JULY 23 2015 the

Grand Jurors of Spartanburg County present upon their oath:

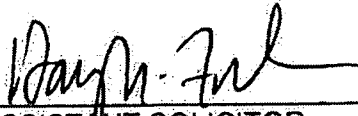
COUNT ONE: ATTEMPTED MURDER

That Holmes Andrew Simpson-Davis, did in Spartanburg County on or about July 25, 2015, with malice aforethought attempt to kill James Kilgore, by shooting the victim with a handgun, with the intent to kill the said victim, in violation of §16-03-0029, of *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

COUNT TWO: POSSESSION OF A WEAPON DURING A VIOLENT CRIME

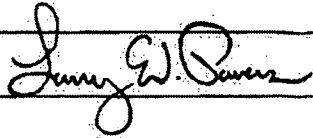
That Holmes Andrew Simpson-Davis, did in Spartanburg County on or about July 25, 2015, possess or visibly display a handgun during the commission of a violent crime, to-wit: ATTEMPTED MURDER, in violation of Code §16-23-490, *CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

WITNESSES

Spartanburg County Sheriff's Office

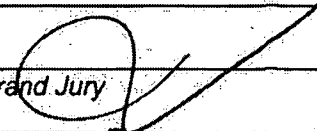
True Bill

ARREST WARRANT NUMBER

COUNT ONE: 2015A4210202364

COUNT TWO: DIRECT INDICTMENT

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date: 

VERDICT

COUNT #1 GUILTY

COUNT 2 GUILTY

RANDALL K. CHAMBERS

Foreperson of Petit Jury
Date: 9/8/2017

DOCKET NO.

16-GS-42-1736

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAR 28 2016

TERM

THE STATE
vs.

Holmes Andrew Simpson-Davis

Indictment for

ATTEMPTED MURDER AND
POSSESSION OF A WEAPON DURING A
VIOLENT CRIME

SC Code: 16-3-0029; 16-23-490

CDR Code: 3410; 549

Class FEL-A; FEL-F

FILED
MAR 29 2016
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on MAR 25 2015, the
 Grand Jurors of Spartanburg County present upon their oath:

COUNT ONE—MURDER

That Holmes Andrew Simpson-Davis, did in Spartanburg County on or about July 25, 2015, feloniously, willfully and with malice aforethought, kill one Robert Lee Hull, by shooting the victim with a handgun, and that the said victim died as a proximate result thereof, all in violation of §16-3-0010, 0020, CODE OF LAWS OF SOUTH CAROLINA, (1976, as amended).

**COUNT TWO—POSSESSION OF FIREARM DURING
 COMMISSION OF A VIOLENT CRIME**

That Holmes Andrew Simpson-Davis, did in Spartanburg County on or about July 25, 2015, possess a firearm, during the commission of a violent crime as defined in Code §16-1-60, to wit: MURDER, in violation of Code §16-23-490, CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

475

COUNTY OF SPARTANBURG
 STATE VS.
Holmes Andrew Simpson-Davis

AKA:
 Race: BLACK Sex: M Age: 26
 DOB: [REDACTED] SS#: [REDACTED]

Address: Bona St
 City, State, Zip: SPARTANBURG SC 29303
 DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Murder / Attempted Murder (0-30 NS NP)

INDICTMENT/CASE#: 2016GS4201734A/W#: 2015A4210202365Date of Offense: 7/25/2015S.C. Code § 16-03-0029CDR Code #: 3410

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: [Signature] 77517 [Signature] [Signature] 71255
HUNTER, JAMES EDWARD SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed — years
 and/or to pay a fine of \$ —; provided that upon the service of — days/months/years and/or payment
 of \$ —; plus costs and assessments as applicable*; the balance is suspended with probation for —

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:

☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
 Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ — plus 20% fee: \$ —

Payment Terms: —

☐ Set by SCDPPPS —

Recipient: —

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 61.6 (Public Def/Probation)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114 (BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$ 3 ⁷⁵

TOTAL \$ 128⁷⁵

Clerk of Court/ Deputy Clerk J. Camp

Court Reporter: Hollie Jenkins

SCCA/217 (07/2016)

PTUP —

— days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. —

May serve W/E beginning —

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ — beginning —

\$ — paid to Public Defender Fund

Other: —

☐ Appointed PD or appointed other counsel,
 Proviso 61.6 requires \$500 be paid to Clerk
 during probation and shall be collected before
 any other fees.

Presiding Judge [Signature]

Judge Code: 2053

Sentence Date: September 8, 2017

STATE OF ~~436~~ SOUTH CAROLINACOUNTY OF SPARTANBURG
STATE VS.

Holmes Andrew Simpson-Davis

AKA:

Race: BLACK Sex: M Age: 26

DOB: [REDACTED] SS#: [REDACTED]

Address: Bon Air St

City, State, Zip: Spartanburg SC 29303

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Weapons / Poss. weapon during violent crime (Flat 5)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS4201734A

A/W#: 2016GS4201734A

Date of Offense: 7/25/2015

S.C. Code § 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ § 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: [Signature] 77517 [Signature] 71255
HUNTER, JAMES EDWARD SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$
§ 14-1-206 (Assessments 107.5%)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 61.6 (Public Def/Probation)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114 (BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$ 375

TOTAL

\$ 12875

Clerk of Court/ Deputy Clerk

Court Reporter: Hollie Jenkins

SCCA/217 (07/2016)

Presiding Judge

Judge Code:

Sentence Date:

PTUP days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning \$ paid to Public Defender FundOther: ☐ Appointed PD or appointed other counsel,
Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Presiding Judge

Judge Code:

Sentence Date:

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

477

COUNTY OF SPARTANBURG

STATE VS.

Holmes Andrew Simpson-Davis

AKA:

Race: BLACK Sex: M Age: 26

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Spartanburg SC 29303

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Murder / Murder

INDICTMENT/CASE#: 2016GS4201735

A/W#: 2015A4210202363

Date of Offense: 7/25/2015

S.C. Code § : 16-03-0010; 16-03-0020

CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0010; 16-03-0020 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: [Signature] HUNTER JAMES EDWARD SC Bar# 77517 Defendant [Signature] Attorney for Defendant SC Bar# 7255WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of life days/months/years or ☐ under the Youthful Offender Act not to exceed — years
and/or to pay a fine of \$ —; provided that upon the service of — days/months/years and/or paymentof \$ —; plus costs and assessments as applicable*; the balance is suspended with probation for —

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ — plus 20% fee: \$ —Payment Terms: —☐ Set by SCDPPPS —Recipient: —*Fine: \$ —§ 14-1-206 (Assessments 107.5 %) \$ —§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ —§ 56-5-2995 (DUI Assessment) \$12 \$ —§ 56-1-286 (DUI Breath Test) \$25 \$ —Proviso 61.6 (Public Def/Probation) \$500 \$ —§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00§ 14-1-213 (Drug Court Surcharge) \$150 \$ —§ 50-21-114 (BUI Breath Test Fee) \$50 \$ —§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ —3% to County (if paid in installments) \$ 3.75TOTAL \$ 128.75— days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. —May serve W/E beginning —Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ — beginning —\$ — paid to Public Defender FundOther: —☐ Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk

Court Reporter: Hillie Jenkins

SCCA/217 (07/2016)

Presiding Judge

Judge Code: —Sentence Date: September 8, 2017

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

STATE VS.

Holmes Andrew Simpson-Davis

AKA:

Race: BLACK Sex: M Age: 26

DOB: [REDACTED] SS#: [REDACTED]

Address: Bona St

City, State, Zip: Spartanburg SC 29303

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Weapons / Poss. weapon during violent crime (Flat 5)

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: 72221A 77517 [Signature] Chitika P. Shryer 71255

HUNTER, JAMES EDWARD

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,for a determinate term of _____ days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 61.6 (Public Def/Probation)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$ 35

TOTAL

\$ 128.95

Clerk of Court/ Deputy Clerk: T. Camp

Court Reporter: Hollie Jenkins

SCCA/217 (07/2016)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS4201735A

A/W#: 2016GS4201735A

Date of Offense: 7/25/2015

S.C. Code § 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: 72221A 77517 [Signature] Chitika P. Shryer 71255

HUNTER, JAMES EDWARD

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,for a determinate term of _____ days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 61.6 (Public Def/Probation)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$ 35

TOTAL

\$ 128.95

Clerk of Court/ Deputy Clerk: T. Camp

Court Reporter: Hollie Jenkins

SCCA/217 (07/2016)

Presiding Judge

Judge Code:

Sentence Date:

[Signature]
2053
September 8, 2017

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

479

COUNTY OF SPARTANBURG

STATE VS.

Holmes Andrew Simpson-Davis

AKA:

Race: BLACK Sex: M Age: 26

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: [REDACTED] SC 29303

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Murder / Attempted Murder (0-30 NS NP)

INDICTMENT/CASE#: 2016GS4201736

A/W#: 2015A4210202364

Date of Offense: 7/25/2015

S.C. Code §: 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury: (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: [Signature] 77517 [Signature] [Signature] 71255
HUNTER, JAMES EDWARD SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed — years
and/or to pay a fine of \$ —; provided that upon the service of — days/months/years and/or payment
of \$ —; plus costs and assessments as applicable*; the balance is suspended with probation for —months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ — plus 20% fee: \$ — — days/hours Public Service EmploymentPayment Terms: —☐ Set by SCDPPPS —Recipient: —

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$3.75

TOTAL

\$128.75

Clerk of Court/ Deputy Clerk

Court Reporter: Hollie Jenkins

SCCA/217 (07/2016)

Presiding Judge

Judge Code:

Sentence Date:

☐ Appointed PD or appointed other counsel,
Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

COUNTY OF SPARTANBURG

STATE VS.

Holmes Andrew Simpson-Davis

AKA:

Race: BLACK Sex: M Age: 26

DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip:

DL#: [REDACTED] SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Weapons / Poss. weapon during violent crime (Flat 5)

INDICTMENT/CASE#: 2016GS4201736A

A/W#: 2016GS4201736A

Date of Offense: 7/25/2015

S.C. Code § 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-23-0490

of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury: (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: 7-25-17 77517 [Signature] [Signature] 7-25-17
HUNTER JAMES EDWARD SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 61.6 (Public Def/Probation)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$ 315

TOTAL \$ 12875

Clerk of Court/ Deputy Clerk

Court Reporter: Hollie Jenkins

SCCA/217 (07/2016)

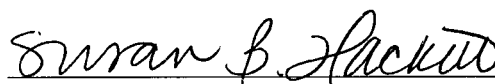
Presiding Judge

Judge Code: Sentence Date: September 8, 2017

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Susan B. Hackett
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 10th day of January, 2019.

RECEIVED
JAN 10 2019
SC Court of Appeals

24314

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County

J. Derham Cole, Circuit Court Judge

ORIGINAL

THE STATE,

RESPONDENT,

V.

HOLMES ANDREW SIMPSON-DAVIS,

APPELLANT

RECEIVED
JAN 11 2019
SC Court of Appeals

APPELLATE CASE NO 2017-001974

FINAL BRIEF OF APPELLANT

SUSAN B. HACKETT
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the trial judge err in failing to instruct the jury on voluntary manslaughter, a lesser-included offense of murder, where the undisputed evidence, including the deceased physically and verbally threatening Appellant, indicated Appellant acted in the sudden heat of passion based upon sufficient legal provocation?

STATEMENT OF THE CASE

On March 25, 2015, a Spartanburg County grand jury indicted Appellant for murder, two counts of attempted murder, and two counts of possession of a weapon during a violent crime. R. 469-474. The state, represented by J. Edward Hunter and Allison M. Mabbs, called the case to trial before the Honorable J. Derham Cole and a jury on September 5-8, 2017. R. 1. Christopher P. Thompson represented Appellant. R. 1. The jury found Appellant guilty as charged. R. 451, l. 23 – R. 452, l. 15. Judge Cole sentenced Appellant to life without the possibility of parole for murder, to thirty years imprisonment for each count of attempted murder, and to five years imprisonment for two counts of possession of a weapon during a violent crime. R. 457, l. 11 – R. 458 l. 10; R. 475-780. In light of the life sentence for murder, Judge Cole did not sent Appellant on one of the weapons convictions. R. 457, ll. 17-18; R. 475-480. He ordered one thirty-year sentence and one five-year sentence to be served consecutively to the other sentences. R. 457, l. 24 – R. 458, l. 2; R. 475-480.

On September 18, 2017, Appellant served his notice of appeal. This brief follows.

STANDARD OF REVIEW

“In criminal cases, appellate courts sit to review only errors of law.” State v. Sams, 410 S.C. 303, 307, 764 S.E.2d 511, 513 (2014); see also State v. Baccus, 367 S.C. 41, 625 S.E.2d 216 (2006); State v. Wilson, 345 S.C. 1, 545 S.E.2d 827 (2001). “An appellate court will not reverse the trial [court]’s decision absent an abuse of discretion.” State v. Pittman, 373 S.C. 527, 570, 647 S.E.2d 144, 166 (2007). “An abuse of discretion occurs when the trial court’s ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support.” Id. at 570, 647 S.E.2d at 166–67.

“The law to be charged to the jury is determined by the evidence presented at trial.” State v. Hill, 315 S.C. 260, 262, 433 S.E.2d 848, 849 (1993). “The trial court is required to charge a jury on a lesser-included offense if there is evidence from which it could be inferred that the defendant committed the lesser, rather than the greater, offense.” Sams, 410 S.C. at 308, 764 S.E.2d at 513; see also State v. Drafts, 288 S.C. 30, 340 S.E.2d 784 (1986); Dempsey v. State, 363 S.C. 365, 610 S.E.2d 812 (2005); State v. Gourdine, 322 S.C. 396, 472 S.E.2d 241 (1996). “The refusal to grant a requested jury charge that states a sound principle of law applicable to the case at hand is an error of law.” Pittman, 373 S.C. at 570, 647 S.E.2d at 167. “In determining whether the evidence requires a charge on a lesser-included offense, the [appellate court] must view the facts in the light most favorable to the defendant.” Sams, 410 S.C. at 308, 764 S.E.2d at 513 (citing State v. Cole, 338 S.C. 97, 525 S.E.2d 511 (2000)). “The charge request is properly rejected when there is no evidence tending to show the defendant was guilty of the lesser offense.” Id. (citing State v. Tucker, 324 S.C. 155, 478 S.E.2d 260 (1996); State v. Cooney, 320 S.C. 107, 463 S.E.2d 597 (1995); State v. Gadsden, 314 S.C. 229, 442 S.E.2d 594 (1994)).

STATEMENT OF FACTS

In the early morning hours of July 25, 2015, Angela Geter and her sister, Anitra, were sitting on the front porch of Anitra's house on Howard Street. R. 80, l. 23 – R. 81, l. 12; R. 102, ll. 1-8. The two women were "having fun" and were "wasted." R. 83, l. 24 – R. 84, l. 1; R. 87, ll. 4-7; R. 102, ll. 4-6. As a result of all that fun, Angela's memory was not very good. R. 83, l. 24 – R. 84, l. 1.

Robert "Big Boy" Hull was at a nearby "liquor house," where there was a party. R. 85, ll. 16-23; R. 102, ll. 19-20; R. 106, ll. 1-6. His cousins, James "JJ" Hull Kilgore and Bruce Brewton, were at the liquor house as well – "drinking a little bit, having fun" and "getting wast[ed]." R. 108, ll. 11-23; R. 109, ll. 18-25; R. 110 ll. 3-7; R. 125, ll. 16-18; R. 276, ll. 4-11. "[A] fight broke out" at the liquor house between "Junior" and his stepfather. R. 110, ll. 10-15. Junior's mother got into an argument with Hull regarding the fight as well. R. 110, ll. 19-24. Junior was at the liquor house with Felshunti "Little Man" Clark and "Pee Wee." R. 111, ll. 10-21.

After the fight between Junior and his stepfather ended, Kilgore grabbed Junior and took him outside. R. 113, ll. 5-7. Clark and Pee Wee were outside as well. R. 113, ll. 7-10. According to Kilgore, "they walked up on" him "to ask [him] what [he] had going on." R. 113, ll. 10-11. Kilgore "pushed both of them up off of [him]." R. 113, l. 11. Another person broke up the scuffle. R. 113, ll. 11-12. Junior, Clark, and Pee Wee left, and Kilgore returned to the party inside. R. 113, ll. 13-14.¹

¹ Appellant "was never at the liquor house." R. 112, ll. 2-4; R. 276, ll. 1-3.

Shortly thereafter, Brewton told Kilgore he was ready to go. R. 113, ll. 17-19; R. 277, ll. 1-10. Brewton, Kilgore, and two other men walked toward Brewton's car, which was parked across the street. R. 113, l. 22 – R. 114, l. 19. Brewton drove to Anitra's house because Hull, who had walked over, needed to "grab his stuff." R. 81, ll. 16-22; R. 102, ll. 18-19; R. 103, ll. 13-14; R. 115, ll. 1-5; R. 115, ll. 15-16; R. 277, ll. 21-24; R. 278, ll. 12-15. Brewton got out of the car to smoke. R. 115, ll. 17-20; R. 278, ll. 24-25.

Two men left the liquor house, and called for Kilgore. R. 81, l. 23 – R. 82, l. 6; R. 102, ll. 12-16. The men continued to walk down the street. R. 82, ll. 6-7; R. 102, l. 16. A short while later, the two men returned along with two to three other men. R. 82, ll. 9-10; R. 102, ll. 21-22. Again, the men called for Kilgore, who got out of Brewton's car and walked into the street to meet the men. R. 82, ll. 13-15; R. 102, ll. 22-24; R. 115, ll. 17-24. Kilgore and the men started arguing. R. 82, l. 15; R. 102, l. 24; R. 279, ll. 7-14. Kilgore claimed that Clark and Appellant were among the five men, and that Clark indicated he wanted to fight Kilgore "one-on-one." R. 115, l. 22 – R. 116, l. 5; R. 279, ll. 7-10; R. 280, ll. 17-20; R. 283, ll. 17-20. Kilgore indicated this was "no problem." R. 116, ll. 2-3.

When Kilgore approached Clark to fight, he saw Appellant with a gun. R. 116, ll. 11-17; R. 280, ll. 23-25. According to Kilgore and Brewton, Appellant said the fight was not going to happen. R. 116, ll. 11-17; R. 283, ll. 20-21. As Kilgore backed down from the fight, Brewton approached the men, purportedly to calm what he perceived to be rising tensions. R. 117, ll. 19-25; R. 283, l. 22 – R. 284, l. 5. Brewton explained to the group that he wanted to take his cousins home and that any dispute that had not been resolved by the next time the men saw each other could be resolved then. R. 284, ll. 1-5. After Brewton's intercession, everyone was "going to back off and going to go get in [Brewton's] car." R. 284, ll. 6-9.

Meanwhile, Hull stepped on to the front porch of Anitra's house to change his shoes. R. 82, ll. 15-16. Although the dispute between Kilgore and the men had been resolved, Hull also approached the men in the roadway. R. 118, l. 22 – R. 119, l. 1; R. 140, ll. 14-25; R. 241, ll. 3-19; R. 284, ll. 15-17. Hull walked down the steps and called out to the men to ask what they were going to do – “[f]ight or shoot?” R. 82, ll. 17-18; R. 86, ll. 11-13. As Brewton put it, Hull “got mouthy.” R. 241, ll. 8-9. At this point, Hull was in Clark's face. R. 119, ll. 7-9; R. 121, ll. 20-22. Additionally, Hull was “face-to-face” with Appellant. R. 285, l. 4. Hull repeatedly bumped into Appellant. R. 285, ll. 4-6; R. 286, ll. 1-3. Hull cursed the men and told them they were not the only ones with guns. R. 302, l. 23 – R. 303, l. 1. Hull threatened to get his gun. R. 303, l. 1; R. 303, ll. 6-8.

After Hull's threat to get his gun, a gunshot rang out, and Hull fell to the ground. R. 82, ll. 18-19; R. 285, l. 6; R. 303, ll. 1-2. Kilgore and Brewton claimed Appellant shot Hull. R. 119, ll. 2-6. Kilgore and Brewton ran away. R. 122, ll. 5-9; R. 287, ll. 22-25. Kilgore claimed he heard multiple shots as he ran away. R. 122, ll. 11-12. Brewton told a slightly different story. He claimed Appellant shot Hull twice “and just started repeatedly shooting.” R. 286, ll. 3-4.

According to Kilgore, Brewton, and a man standing on a nearby porch, at least two men had weapons during the altercation. R. 42, ll. 4-10; R. 118, ll. 5-8; R. 281, ll. 1-6; Defendant's Exhibit #1. The man standing on the porch explained that two men were running forward and shooting backwards. R. 42, ll. 11-19. The men were looking in the direction in which they were running, but shooting backwards. R. 43, ll. 3-20. In other words, the men were not aiming and shooting at anything or anyone in particular. R. 43, ll. 3-20.

Kilgore was shot in the foot. R. 123, ll. 19-20. He did not know who shot him because he claimed he was shot as he ran away. R. 124, ll. 10-11. According to Kilgore, “there [were]

two guns going off” when he was shot. R. 124, l. 13. While running away, Brewton was shot once in the calf muscle and another bullet grazed the bottom of his ankle. R. 288, ll. 12-16.

Brewton claimed that when the “first wave of shooting stopped,” he “was about to get up and get in [his] truck,” but he did not because the men returned “shooting some more.” R. 289, ll. 22-24. Eventually, the shooting stopped and one of the men who had been in Brewton’s car earlier appeared. R. 290, ll. 7-10. Brewton told the man that he was not waiting on an ambulance because he was losing blood. R. 290, ll. 11-12. He and the man got into the car to go to the ambulance. R. 290, ll. 11-12. While backing out of Anitra’s driveway, they saw Kilgore who asked for a ride as well. R. 290, ll. 13-17. Kilgore was calling an ambulance when Brewton stopped to pick him up. R. 122, ll. 13-14; R. 290, ll. 18-19.²

Kilgore, Brewton, and the driver left Hull behind as they went to the hospital. R. 143, ll. 17-23. Brewton did not check on Hull or attempt to render aid. R. 305, ll. 7-9; R. 305, ll. 16-18. Hull ultimately died at the scene. R. 17, l. 19 – R. 18, l. 6; R. 324, ll. 15-17. According to the pathologist, Hull died from “traumatic injury to the cervical spinal cord, secondary to a gunshot wound to the head in the lower face.” R. 324, ll. 3-9. Testing of the gunshot residue kit performed on Hull revealed the presence of “particles of gunshot primer residue.” R. 324, ll. 8-12.

During his call for help, Kilgore repeatedly told the 911 operator that he did not know who shot Hull. R. 122, ll. 15-22; R. 141, ll. 22-24. In fact, Kilgore even told the police later when he was interviewed that he did not know the identity of the shooter. R. 122, l. 23 – R. 123, l. 1; R. 142, ll. 2-4. Incredulously, Kilgore claimed that when he realized Hull was dead, he

² Anitra Geter also called 911 from inside the house just before she heard gunshots. R. 103, ll. 1-2; R. 103, ll. 24-25; R. 104, ll. 10-16.

decided to tell the police that Appellant was the person who shot Hull. R. 123, ll. 2-13; R. 124, ll. 11-12; R. 142, ll. 11-13. This was not the only lie Kilgore would tell police. Initially, Kilgore did not tell the police about a fourth person in the car on the drive from the liquor house to pick up Hull. R. 125, ll. 23-25. Kilgore claimed he simply “forgot to mention” the fourth person because he “disappeared so fast.” R. 125, l. 23 – R. 126, l. 1. Similarly, and mysteriously, Brewton also “forgot” to tell the police about this fourth person who was in the car with them. R. 277, ll. 16-20.

Kilgore denied ever telling the police that Clark was the shooter. R. 127, ll. 17-9. Kilgore denied telling the police that when Hull approached the men, he advised them that they were not the only ones with guns. R. 128, ll. 14-18.

Kilgore and Brewton claimed that the two of them and Hull were unarmed. R. 118, ll. 12-19; R. 285, ll. 7-16. Kilgore denied telling the police that he fired a gun. R. 128, ll. 19-23. Despite listening to his recorded interview with police, Kilgore claimed he did not tell the police that he shot first, but insisted that he told the police he was in shock. R. 136, l. 4 – R. 137, l. 10; see also R. 206, ll. 6-22 (officer testifying that Kilgore said he was in shock).

Brewton claimed he was “reluctant” to speak to the police while he was in the hospital because “people going to go and mess with [his] family while [he was] down.” R. 291, ll. 9-17. He could not “really do nothing to defend nobody” from his hospital bed. R. 291, ll. 17-18. As a result, he told the police that he did not know who shot him or Hull. R. 292, ll. 2-5. However, despite these alleged concerns, Brewton did tell the police that Clark was involved. R. 294, ll. 5-12. In fact, according to police, “one of the victims” said “one of the shooters” “went by the street name of Little Man.” R. 195, ll. 5-12. Felshunti Clark is Little Man. R. 195, ll. 13-21. However, a few days later, Brewton claimed he told the police “the truth.” R. 291, ll. 19-24.

Prior to speaking to police for the second time, Brewton learned of Appellant's name from Kilgore. R. 294, l. 16 – R. 295, l. 2.

ARGUMENT

The trial judge erred in failing to instruct the jury on voluntary manslaughter, a lesser-included offense of murder, where the undisputed evidence, including the deceased physically and verbally threatening Appellant, indicated Appellant acted in the sudden heat of passion based upon sufficient legal provocation.

Relevant facts

During the charge conference, defense counsel requested the judge instruct the jury on the lesser-included offense of voluntary manslaughter concerning the murder indictment. R. 361, ll. 19-25. Specifically, defense counsel argued Hull “re-engag[ed] the situation” and that Appellant’s conduct was “without malice.” R. 361, ll. 19-23. Hull approached the group very rapidly, and there was no malice involved. R. 361, ll. 23-25. Defense counsel noted the testimony “that there was physical contact between the parties.” R. 362, ll. 8-9. As defense counsel explained, there was sufficient legal provocation and heat of passion based upon the fight and the interactions between the parties. R. 362, ll. 10-12.

The state objected to instructing the jury regarding voluntary manslaughter because “[w]ords alone are not enough for sufficient legal provocation.” R. 362, ll. 1-6. According to the state, the only evidence in the record as to provocation were “words.” R. 362, ll. 5-6.

Judge Cole denied the request, finding that “even if the evidence would give rise to a reasonable inference of heat of passion,” there was no “evidence to support a sufficient legal provocation.” R. 362, ll. 13-16. He was “not certain” “there was any evidence of heat of passion,” “[b]ut giving [the defense] the benefit of the doubt on that issue,” he still found there was “not sufficient legal provocation.” R. 362, ll. 17-18. Thus, Judge Cole denied the request for the jury instruction on voluntary manslaughter. R. 362, ll. 19-20.